Final Report of the Voluntary Planning Off-highway Vehicle Task Force

November 2004

VOLUNTARY PLANNING

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Foreword

Voluntary Planning serves Nova Scotians as their Citizens' Policy Forum. This unique organization resides within the policy centre of government and enables Nova Scotians to provide advice directly to the Premier, Cabinet, and senior government officials.

On this occasion, as with past Voluntary Planning efforts, we assembled a highly capable and credible team of volunteers knowledgeable on the central issues and who bring a diverse mix of perspectives to bear on the discussion at hand.

By all accounts this can be classified as a major consultation process. This has been one of Voluntary Planning's most comprehensive consultations in recent memory, perhaps the largest ever in terms of direct participation by the public.

Collectively these dedicated Off-highway Vehicle Task Force members have volunteered the equivalent of 1000 working days since the spring of 2003. In doing this they participated in 24 community hall meetings, met with numerous stakeholder and community organizations, reviewed hundreds of research papers, considered thousands of detailed written submissions, and met on many occasions to reach a consensus.

The Voluntary Planning Board of Directors has reviewed and approved the final report of the Off-highway Vehicle Task Force. As acting Board Chair, I wish to endorse that the Off-highway Vehicle Task Force has adhered to the principles of Voluntary Planning in conducting their work.

In particular the Task Force has

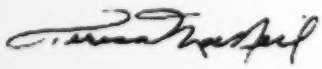
- conducted inclusive and extensive consultations that allowed for feedback on an interim position
- thoroughly researched the subject and considered best practices in other jurisdictions
- operated in a non-partisan, transparent manner and in the best interest of all Nova Scotians

No individual, group, or organization can claim to have a more comprehensive understanding of the off-highway vehicle situation in our province than this Task Force. By virtue of such an extensive dialogue and the consideration of highly diverse and often conflicting positions, the Task Force report represents a tremendous opportunity for the government to take decisive action to solve the problems associated with the recreational use of off-highway vehicles in Nova Scotia.

Voluntary Planning appreciates its role in helping to forge, on behalf of Nova Scotians, a lasting solution to this complex and values-based issue.

We wish those responsible for implementation the greatest possible success.

Sincerely,



Teresa MacNeil
Acting Chair, Voluntary Planning Board

Acknowledgements

The Task Force wishes to thank all those who participated in this process. Everyone who took time out of their very busy schedules to attend meetings or to thoughtfully express their views in writing has contributed to a democratic public policy process in a valuable way.

We want to acknowledge and thank David Bellefontaine who led the Task Force for much of its duration. Unfortunately his business schedule did not permit him to continue. He relinquished the role of Chair to Louis Tousignant in the spring, not long after the release of the interim report.

Appreciation is also extended to the staff of Voluntary Planning for their tremendous effort and guidance to our team, especially those working most closely on this project: Leo Dillman, Executive Director; Charles McKenna, Project Manager; and Barbara Jack, Administrative Assistant.

We would also like to thank the many government officials who supported our efforts and reacted in a timely and professional manner to our various requests for information. In particular we want to acknowledge Jonathan Davies with the Department of Justice for his valuable legal advice, Frank Oram at the Provincial Library for his help with research, and Diane Macgregor at Communications Nova Scotia for editing our interim and final reports.

Introduction

In March 2003 the Province of Nova Scotia asked Voluntary Planning (VP) to consult, research, discuss, and make recommendations on the recreational use of off-highway vehicles in Nova Scotia. As a basis for preparing our recommendations, we were called upon in our Terms of Reference to consider the input of citizens, best practice approaches in other jurisdictions, and advice from experts.

Specifically the Terms of Reference asked for advice on the following key issues:

- public health and safety
- liability
- environmental impacts
- property rights
- public and private land use
- user conflict
- opportunities for responsible off-highway vehicle use

In doing our work, we were asked to consider opportunities for partnerships, the assignment of responsibilities, and the funding required to implement specific recommendations.

Since last fall, we have been engaged in an intensive investigation and consultation process. This final report defines off-highway vehicles as mainly all-terrain vehicles (ATVs) and snowmobiles, but also motorcycles (dirt bikes), Argos, and all other motorized vehicles operating off-highway.

We studied reports from other jurisdictions, notably the Province of New Brunswick and the State of Maine. We studied briefing material from several provincial government departments that deal with off-highway vehicles as part of their mandate. An Interdepartmental Resource Team of officials assisted us by providing technical information.

Before publishing our interim report, we met with 32 stakeholder groups – groups with a specific or specialized interest in off-highway vehicle issues – to hear their assessment of the challenges and opportunities and to learn about their vision for the future of recreational off-highway vehicle use. In addition to the major off-highway vehicle associations, these groups included environmentalists, trails users, health and safety professionals, enforcement agencies, conservationists, the manufacturers' association, and the insurance industry.

We held 24 community meetings to obtain first hand the views of people from all regions of the province. Over 1,400 people attended these public meetings, and 327 of these people took advantage of the opportunity to address the task force.

We received 714 responses through the citizens' input form that we had distributed at the community meetings and via the Internet.

We published our interim report, *Out of Control*, in February 2004. This report generated widespread interest and comment and, as a consequence, caused Voluntary Planning to extend the period for public review by three and a half months, to July 30, 2004.

Since releasing the interim report, we have received 1,881 additional written submissions from individuals, groups, organizations, associations, and municipal governments. This included about 580 form-type letters. We also received several petitions with hundreds and, in a couple of cases, more than a thousand signatures in support of positions held by their communities or organizations.

Nova Scotia has a management regime for dealing with off-highway vehicles. The Off-highway Vehicles Act is the focus of this regime. However, it was written and enacted in a much different environment. Circumstances have changed tremendously with respect to the types of vehicles, their numbers, their design, and how they affect the communities in which they operate.

Several other pieces of legislation contain measures affecting off-highway vehicle use and serve to augment the Off-highway Vehicles Act.

We have structured our final report around the following five major objectives:

- enhancing and improving off-highway vehicle enforcement
- ensuring that off-highway vehicle enthusiasts have ample places to enjoy their activities
- ensuring the safety of off-highway vehicle drivers
- protecting third-party individuals, landowners, and the environment from the effects of off-highway vehicles
- establishing standards for off-highway vehicles

The recommendations contained within the report provide concrete actions that government, in partnership with stakeholders and representatives of the public interest, can apply immediately and work towards in the future to improve the current situation for all Nova Scotians.

Each of the objectives and the attendant recommendations are inter-related and equally necessary. In transmitting the final report to government, we emphasize the importance of keeping the dialogue going and capitalizing on the spirit of consensus this report has captured.

Executive Summary

Our final report makes 39 recommendations to the Province of Nova Scotia for addressing the problems and capitalizing on the opportunities surrounding off-highway vehicle use. In our view these recommendations represent a compromise position generally consistent with the values, and acceptable to the competing interests, of Nova Scotians.

We do not expect that every individual or organization with strong views on either end of the spectrum will endorse all of our recommendations. However, we do expect that the majority of Nova Scotians will recognize it as a workable compromise to the current pressing issues.

We focused on five areas that work together to create a comprehensive plan for managing off-highway vehicle use in the province: enforcement, infrastructure, safety, protection, and vehicle standards. We believe we have balanced the competing interests, so that while off-highway vehicle enthusiasts are given plenty of scope for enjoying their machines, they do not infringe unduly on the rights of others.

Enforcement

We found that the single biggest change that must come about is in enforcement. Good rules have no tangible effect if not enforced. But enforcement is expensive. And because of the nature of off-highway vehicles, their ability to go anywhere, enforcement potentially involves the whole of our land mass. The enforcement that currently exists is spread very thin and competes with many other priorities. We therefore recommend that the government establish a permanent Integrated Enforcement Task Force, solely dedicated to the policing of off-highway vehicle activity, to ensure that enforcement resources are used more effectively throughout the province.

We also found that enforcement agencies need certain tools to make enforcement possible – all vehicles registered, mandatory driver licensing, and stiffer penalties. Enforcement officers must be able to identify vehicle owners and vehicle operators. The biggest boon for the irresponsible operator is anonymity, which is easy to maintain within our current system. Our recommendations attempt to change that. The co-operation of responsible off-highway vehicle users and their associations, through participation in trail self-policing projects, is critical to the success of enforcement efforts.

Infrastructure

We believe that it is necessary to balance the operator's desire to travel unencumbered on their machines with the needs and interests of the rest of society. We also believe that if we are going to put strict conditions on where these machines may operate, which we believe is necessary, then we must also create adequate spaces for them to operate lawfully. We therefore recommend that money be collected from off-highway vehicle users for all vehicles without exception. This annual $50 fee would fund trail development and other infrastructure needs, from environmental education to self-policing projects. This money, held in trust as the Off-highway Vehicles Infrastructure Trust Fund (Trust Fund), will be managed by a volunteer body linked to the province. Users will pay for the trail system themselves, and certain public lands will be made available for trail development. Use of these machines will then largely be restricted to the managed trail system. This balances the off-highway vehicle enthusiasts' need for space with society's need to limit damage and conserve land for other uses. Off-highway vehicle associations and clubs need to be supported in their efforts to develop and manage trails and to increase their membership.

Safety

Safety is an issue that affects many Nova Scotians, not just those operating off-highway vehicles. It matters immensely to the medical community that treats the injuries and to the families and communities that must deal with death or serious injury caused by the use of off-highway vehicles. We felt it necessary to balance the desires of users with our society's tolerance for risky behaviour. We recommend that all drivers be required to complete an accredited off-highway vehicle training course. We also recommend restricting use of these machines to those 16 years of age and older, through a driver licensing program, with use by younger persons allowed under tight restrictions.

Protection

We believe it imperative to protect various kinds of land, habitat, and wildlife from the damage caused by off-highway vehicles, including protected Wilderness Areas, municipal water supply areas, and ecologically sensitive areas in general. Most of our province is privately owned, and the imposition of off-highway vehicle operators on the rights of these landowners is not acceptable to our society. We recommend that off-highway vehicle users acquire written permission before crossing private land, and we have recommended other protections to landowners so that they will be more willing to grant this permission. We recommend that protected Wilderness Areas and sensitive ecosystems be off-limits to these machines. We also recommend that operators carry third-party liability insurance to protect others from financial loss caused by off-highway vehicle operators.

Vehicle Standards

We recognize that some issues will take the co-operation of many jurisdictions to improve. We recommend that our government work with others to review and/or establish national standards for certain characteristics of off-highway vehicles, such as noise level, tire treads, and other vehicle design issues. In advance of such standards, we have limited our recommendations in this area to making sure that exhaust systems meet established sound standards.

The body of the report discusses the issues raised by Nova Scotians, gives our analysis and conclusions, and states our recommendations. For those who have read our interim report, we have included a section explaining how our earlier recommendations have changed in this final report. See Appendix 2.

List of Recommendations

Enforcement

A Permanent Integrated Enforcement Task Force

1 Establish and fund a permanent Integrated Enforcement Task Force (not funded by the Trust Fund) of at least 12 additional full-time equivalent positions exclusively dedicated to the enforcement of off-highway vehicle laws and regulations and to the coordination of all off-highway vehicle policing activities involving federal, provincial, and municipal enforcement agencies.

2 Mandate the Integrated Enforcement Task Force to a) conduct enforcement blitzes at problem spots across the province, engaging regional and local enforcement personnel (as well as the self-policing community); b) systematically broadcast in print and electronic media the results of enforcement operations (arrests, fines, seizures, etc.); c) conduct educational outreach and community relations programs within the off-highway vehicle community in all parts of the province, to promote safe and responsible recreational use of off-highway vehicles; and d) establish and monitor a public toll-free incident reporting system.

3 Mandate the Integrated Enforcement Task Force to oversee the development of special programs in partnership with the user community and other groups, to support off-highway vehicle user self-policing in all regions of the province. These special programs can be funded by the Trust Fund.

4 Mandate the Department of Natural Resources to be lead agency for the Integrated Enforcement Task Force.

5 Amend legislation to a) extend the time during which an off-highway vehicle can be impounded to the court appearance date; b) increase the range of offences for which sanctions can include seizure and public auction sale of an off-highway vehicle to include particularly failure to stop for enforcement officials, operating under the influence of alcohol/drugs, using an off-highway vehicle to assist in committing a criminal offence, wilfully damaging or removing signage, operating in a park or other protected area; c) allow the application of driver's licence demerit points for serious off-highway vehicle moving infractions (such as speeding and unsafe driving); and d) significantly increase the fines currently in place and provide for a further increase for a second offence, with automatic vehicle seizure and public auction disposal for a third conviction for offences committed within a consecutive 12-month period.

Vehicle Registration

6 Enforce mandatory registration for all off-highway vehicles. Set the registration fee at $50 per vehicle per year: hold $40 in trust for the Off-highway Vehicles Infrastructure Trust Fund (see recommendations 21–23); retain $10 to cover the administrative costs of the Registry of Motor Vehicles (Registry).

7 Administer the registration system at the point of sale for new or used off-highway vehicles purchased at an authorized dealer and at the Registry for private transactions, with registration required within 30 days of purchase.

8 Make it mandatory for all off-highway vehicles to affix and clearly display two identification plates or stickers as issued by the Registry at the front and rear of each vehicle, or as prescribed by the Registry when vehicle design or use makes this impossible.

9 Issue plates or stickers that are larger than the current size, of a new colour, and reflective – to improve visibility for enforcement purposes and to distinguish the new system from the old.

10 Fine the operator of an unregistered off-highway vehicle $250 and provide enforcement agencies with the power to impound the vehicle, at cost to the owner, until valid registration documents are produced.

11 Implement for a period of six months an amnesty program for the owners of currently unregistered machines (model year 2000 and earlier) who cannot produce satisfactory documentation, as an incentive for the timely registration of all off-highway vehicles. Under the amnesty, collect a single HST payment from the current owner only (based on the present market value of the vehicle).

Driver Licensing

12 Implement a mandatory off-highway vehicle driver's licensing program. Restrict fully licensed drivers to persons 16 years of age and older with either an automobile driver's licence endorsed for off-highway vehicle use or a separate off-highway vehicle licence for those without an automobile licence. (See Recommendations 26–28 for other age-related provisions.)

13 Publish an off-highway vehicle operator handbook in support of the licensing system that covers the following: a) the safe and responsible operation of the off-highway vehicle types; b) the general off-highway vehicle regulations; c) the laws protecting landowners (public and private) and the rules for access; d) the code of conduct on trails; e) a list of environmental regulations and descriptions of ecologically sensitive areas; f) illustrations of damaging off-highway vehicle impacts on land outside designated trails; and g) the compendium of possible infractions. Develop a written test based on the operator handbook.

Infrastructure

Designated Off-highway Vehicle Trails and Areas

14 Develop a network of designated trails and areas (on public and private lands with permission) for the recreational use of off-highway vehicle users. Limit off-highway vehicle activity on public land to this network unless otherwise authorized by Department of Natural Resources issued permits.

15 Designate the Sport and Recreation Division of the Office of Health Promotion as the lead government agency charged with overseeing, coordinating within and outside government, and supporting the development of the designated network of off-highway vehicle trails and areas.

16 Mandate the Sport and Recreation Division of the Office of Health Promotion to oversee the development of a) provincial construction standards (including maintenance) for single-use and multi-use trails that accommodate off-highway vehicles and b) provincial rules of operation for off-highway vehicles on designated off-highway vehicle trails and areas, such as speed, type of off-highway vehicle permitted (including size, width, and weight), hours of operation, and time-of-year restrictions.

17 Include culverted gravel woods roads on public land and culverted gravel K-class roads on public land as potential components of a designated network of off-highway vehicle trails and areas with conditions that may be required, such as usage prohibitions during spring thaw or during periods of forest fire hazard.

18 Include abandoned railway corridors as a potential component of a designated network of off-highway vehicle trails and areas under the following conditions: a) In rural areas, permit off-highway vehicle access as a general rule, but consider proximity to residences. b) In residential areas, give municipal governments the authority to allow or prohibit off-highway vehicle traffic on abandoned railway corridors. c) Charge the municipal governments with the responsibility of enforcing provincial rules of operation for off-highway vehicles on abandoned railway corridors, either directly or in conjunction with other policing agencies or self-policing groups, ar allow municipal governments to set community-specific rules over and above provincial standards. d) Require the appropriate authorities to immediately review the right of access for off-highway vehicles to sections of abandoned railway corridors exhibiting questionable ability to maintain order. Review particularly those sections of abandoned railway corridors west of Halifax through to Martins River, Lunenburg County. e) Make every effort to develop alternate trails around the prohibited area when access to abandoned railway corridors cannot be accommodated.

19 Include highway rights-of-way ditches as a potential component of a network of off-highway vehicle trails and areas in accordance with conditions prescribed by the Department of Transportation and Public Works and enable the user community to bring ditches incorporated in the designated network of trails up to appropriate safety and environmental standards.

20 Reinforce the prohibition on all public roads for off-highway vehicles except for the following when incorporated as part of a designated trail or area on terms and conditions acceptable to the Department of Transportation and Public Works: a) to cross a public road at planned and well-signed locations b) to travel on the shoulder for short distances when such areas are appropriately signed to alert other users of the public road.

OHV Infrastructure Trust Fund

21 Establish an Off-highway Vehicles Infrastructure Trust Fund (Trust Fund) for an initial period of five years managed by an executive committee consisting of a volunteer chairperson, volunteer members (including representatives from umbrella associations of off-highway vehicle enthusiasts, the medical and safety profession, the environmental sector, landowners, and the enforcement community), and non-voting officials representing lead government departments. Mandate the Sport and Recreation Division of the Office of Health Promotion to act as the Secretariat to the Trust Fund and the Executive Committee.

22 Hold $40 of the $50 annual registration fee of each off-highway vehicle in Nova Scotia in trust, with $30 per vehicle per year to be assigned to trail development and maintenance and to the core funding of off-highway vehicle user organizations, and $10 per vehicle per year to be assigned to projects related to operator health and safety, education and training, self-policing on trails by users (not regular or special off-highway vehicle work carried out by enforcement agencies) and environmental demonstration projects.

23 Give the Trust Fund and its Executive Committee a general mandate to oversee the implementation of the government's response to this report, to make decisions on project funding, to facilitate conflict resolution, and to report annually on the progress made in managing off-highway vehicle issues. More specifically, in establishing and structuring the Trust Fund Executive Committee,

- Assign to the Executive Committee as a whole the responsibility to develop and publish the blueprint of a comprehensive off-highway vehicle trail network for Nova Scotia that is based on inclusive consultations, negotiations, and public review.

- Assign to the Executive Committee as a whole decision-making powers on the funding of all projects that are not directly related to trail development and maintenance.

- Establish a Trail Development Sub-Committee of the executive – consisting of the Trust Fund Chairperson, representatives from SANS, ATVANS, the Nova Scotia Trails Federation, and a non-voting representative from the Sport and Recreation Division of the Office of Health Promotion – and assign to it decision-making power on the approval and funding of trail development and maintenance projects; SANS should be provided with an annual block grant of $30 per registered snowmobile per year to maintain and expand its established network of managed trails.

Trail Management

24 Amend legislation to make the SANS trail permit system mandatory on trails established and maintained by the organization at the same time as the Off-highway Vehicles Infrastructure Trust Fund is established, with the following provisions: a) require all snowmobiles to display a trail permit when using a SANS-managed snowmobile trail b) make unauthorized off-highway vehicle use of SANS trails an offence (to avoid damage to trails and damage to relationships with landowners) c) make third-party liability insurance mandatory for all motorized vehicle users of SANS trails d) impose a fine of at least $250 for failing to comply with the above requirements, which would increase in severity for subsequent offences. Enable other organizations (such as ATVANS) to take advantage of such a permit system once they develop a comparable managed trail network.

Rally Management

25 Amend legislation to establish a mandatory permit requirement for all off-highway vehicle rallies, to be managed by umbrella organizations such as SANS or ATVANS. The approval process should ensure that all necessary permissions have been received from affected landowners, that the event organizers have taken all necessary precautions to protect the environment, and that local enforcement authorities have been notified.

Safety

Age of Drivers

26 Allow youth 14 and 15 years of age to operate off-highway vehicles only if they acquire a youth class learner's licence (to be created), and only if all the following conditions are met: a) Successful completion of an accredited off-highway vehicle training course by both the youth and the parent or guardian. b) Mandatory direct supervision by (in the company and within sight of) the parent or guardian at all times while operating the off-highway vehicle.

27 Prohibit children under the age of 14 from operating off-highway vehicles, on public or private land, except when activities are conducted on closed courses under the auspices of an accredited organization (sanctioned by the Registry) for children participating in off-road motorized activities operating under the following conditions:

- specially designed and maintained closed courses
- mandatory high-quality protective equipment and clothing
- mandatory progressive training
- comprehensive rules of order strictly enforced
- riders divided into different classes based on age, size, and ability
- mandatory parental supervision
- trained officials present
- trained medical personnel and an ambulance on site

28 Fine the registered owner of the off-highway vehicle $250 when a person less than 14 years of age operates the off-highway vehicle, unless done so in the manner prescribed in recommendation 27.

Training

29 Require all off-highway vehicle operators to complete an accredited off-highway vehicle training course. Phase in training, based on available accredited training capacity, so as to place emphasis on younger drivers and those who are operating off-highway vehicles for the first time. Accept successful completion certificates from a Canada Safety Council course as proof of training until such time as the accredited off-highway vehicle training course is established.

30 Include the following in accredited training course content: a) the safe and responsible operation of the off-highway vehicle types; b) the general off-highway vehicle regulations; c) the laws protecting landowners (public and private) and the rules for access; d) the code of conduct on trails; e) a list of environmental regulations and descriptions of ecologically sensitive areas; f) illustrations of damaging off-highway vehicle impacts on land outside designated trails; and g) the compendium of possible infractions.

Protection

Landowners

31 Amend legislation to require that off-highway vehicle drivers (individually or through a recognized club or association) acquire written permission from landowners.

32 Amend legislation to ensure that off-highway vehicle drivers and passengers (whether permission to access a property is granted or not) willingly assume all risks and liabilities, except those that arise through the deliberate intent of the owner/occupier of a property.

33 Amend legislation to ensure that operators of off-highway vehicles do not acquire prescriptive rights of access against a landowner solely through the use of an off-highway vehicle, whether or not permission for use is granted.

Protected Wilderness Areas

34 Prohibit off-highway vehicle use by the public in existing protected Wilderness Areas. Allow three years for designated Snowmobilers Association of Nova Scotia (SANS) trails that are currently authorized through ministerial discretion to be phased out and replaced with alternate routes outside the affected protected Wilderness Area. Despite this target date of three years, under no circumstances deny access of SANS members to existing approved trails until alternate routes are available, as long as SANS continues to work in good faith on alternate routes.

Other Ecologically Sensitive Areas

35 Amend legislation to prohibit off-highway vehicles from the following sensitive ecosystems, unless otherwise specifically allowed within the designated trail network: a) barrens – coastal and plateau b) beaches (marine and fresh water) and dunes c) bogs and marshes d) brooks, streams and rivers e) other sensitive ecosystems as defined by the Department of Environment and Labour.

36 Amend legislation to prohibit all off-highway vehicle use by the public within official and posted supply areas for potable water (as defined by the municipality or provincially via designation as a Protected Water Area) unless otherwise prescribed by the responsible water authorities.

Third-party Liability Insurance

37 Introduce the requirement for off-highway vehicle drivers to carry third-party liability insurance, except for those who use their vehicle exclusively on their own property.

Vehicle Standards

Noise

38 Amend legislation so that it is an offence to operate an off-highway vehicle with a defective or modified exhaust system that does not meet established sound standards.

National Standards

39 Engage other provinces and the federal government in discussions to establish national off-highway vehicle standards on the following: a) better vehicle identification (accommodation for licence plates and or stickers); b) responsible advertising; c) power, speed, weight, size, and tire design; d) exhaust systems and noise; e) engine design, fuel efficiency, and pollution; f) common location for vehicle identification numbers; and g) additional safety and design features.

Enforcement

We learned how the absence of a strong enforcement presence creates problems for people subjected to irresponsible recreational off-highway vehicle use as well as for those who ride responsibly. This lack of enforcement has allowed issues to escalate and responsible operators to be unfairly labelled. This section describes why we feel it is so important for government to increase the enforcement effort and to make this effort more effective.

Our response to the enforcement challenge is to

- provide new resources for a permanent Integrated Enforcement Task Force dedicated to off-highway vehicle enforcement
- provide enforcement agencies with better tools such as stiffer fines and penalties
- ensure that the identity of both the machine and the operator can be legally verified

A Permanent Integrated Enforcement Task Force

What we heard

Without question, the lack of effective enforcement is the number one issue on the minds of Nova Scotians when it comes to off-highway vehicles. Most people we heard from since the interim report welcomed the increased emphasis on enforcement, including off-highway vehicle users themselves and private landowners.

We heard from landowners who feel helpless in protecting their property from trespass. They also described to us the harassment and intimidation tactics employed by some problem off-highway vehicle drivers. We heard farmers and foresters decry the seemingly unstoppable destruction of crops by irresponsible operators. We heard environmentalists, conservationists, bird watchers, other trail users, and nature lovers deplore the level of damage that happens – despite legal protection – as a result of deficient enforcement. We heard the concerns of health care workers for the level of injuries and deaths associated with off-highway vehicle use. We heard from residents near trails who find their peace disturbed. And finally we heard from responsible users who share these concerns because bad behaviour reflects negatively on all off-highway vehicle users.

In our interim report we recommended that government establish a permanent integrated enforcement task force of at least 12 people exclusively dedicated to the enforcement of off-highway vehicle laws and regulations. We suggested that government provide the unit with appropriate funding so that they could a) organize enforcement blitzes, b) publicize the results of their enforcement efforts, and c) conduct educational outreach initiatives.

We recommended a number of ways to enhance the deterrence factor by increasing the range and severity of penalties for irresponsible off-highway vehicle use. Many off-highway vehicle enthusiasts felt that our interim report proposed an unnecessarily tough penalty regime. These people found the concepts of impoundment, seizure, auctioning, and applying demerit points to be unfair. Others remained convinced that Nova Scotia has enough rules to promote safe and responsible use – we need only to enforce them.

Task Force analysis and conclusions

Task Force members spent considerable time discussing enforcement issues with enforcement agencies. We identified several interrelated problems when it comes to policing off-highway vehicles:

Lack of resources

- There are insufficient resources within the enforcement community (Royal Canadian Mounted Police, Department of Natural Resources, and local police forces) that can be dedicated to off-highway vehicle law enforcement.

Lack of relative priority

- Given the resource constraints faced by enforcement agencies, off-highway vehicle enforcement rates a very low priority.

Large territory

- The territory to cover is vast given the range of off-highway vehicles, and they generally spread out on thousands of kilometres of trails of all types. This practical consideration may also help explain the lower relative priority of off-highway vehicle enforcement relative to the situation that exists for automobiles on busy highways.

Off-highway vehicle violators can easily evade the police

- Off-highway vehicle operators can evade the police much easier than automobile drivers on roads. Once the police have a car in sight on a road, evasion is unlikely. The situation is quite different for off-highway vehicles, no matter what the terrain. Enforcement officers cannot engage in hot pursuit for fear of being instrumental in the injury or death of a violator. Evaders use this to their advantage. Finally, the absence of a permanent and visible licence plate on many off-highway vehicles helps to ensure that reckless violators cannot be positively identified in a court of law.

Sanctions and penalties do not deter lawlessness

- Even when enforcement personnel are successful in charging or ticketing an individual, the low fines do little to deter the activity.

Partnerships between police and off-highway vehicle associations are a prerequisite to success

- For the reasons listed above, enforcement agencies cannot by themselves bring about peace, order, and responsible behaviour fast enough within the off-highway vehicle community. The co-operation of responsible off-highway vehicle users and their associations, through participation in trail self-policing projects, is critical to the success of enforcement efforts.

The Task Force has received many reports of people being intimidated, threatened, and harassed by irresponsible off-highway vehicle users. This situation is intolerable and the provincial government should take immediate steps to protect the rights of those so affected.

With regard to numbers of irresponsible off-highway vehicle operators, we do not know how many are part of the problem. However, we do know that the numbers are sufficient to cause the range of problems and complaints throughout the province that created the need for this task force.

We believe that an Integrated Enforcement Task Force provides an important means of changing the behaviour of those who choose to act irresponsibly. In fact, all responsible off-highway vehicle operators, as individuals and through their associations, need to be a part of the solution. Their continued co-operation is essential to the success of enforcement efforts and to the acceptance of off-highway vehicles on trails throughout the province.

In our final report recommendations we make clear that the Integrated Enforcement Task Force should receive new funding from the provincial government and not from the Trust Fund. We believe this investment by government will pay back through reduced costs for medical coverage and less environmental damage. And revenues from sustainable off-highway vehicle activities – those developed and conducted responsibly – will benefit Nova Scotia.

The Integrated Enforcement Task Force should be comprised of 12 additional staff members hired by the Royal Canadian Mounted Police (RCMP), the Department of Natural Resources (DNR), and municipal policing agencies. These officers could remain in their respective agencies and work full time on off-highway vehicle policing initiatives. However, enforcement agencies themselves will have to figure out how to use the new resources most effectively. While more Integrated Enforcement Task Force members would certainly be desirable, we recognize the budget limitations of government. Twelve additional staff members represent the minimum number needed to make significant progress.

We recommend that the Department of Natural Resources be tasked as the lead agency to spearhead the development of the Integrated Enforcement Task Force for two reasons: a) The province will be funding this initiative and should, therefore, act as contractor through one of its departments. b) DNR is experienced in co-ordinating multiple-agency enforcement initiatives off-road. A work plan developed by DNR and its partners from other agencies should guide the day-to-day activities of the Integrated Enforcement Task Force.

These 12 enforcement officers should become expert resources within their respective agencies. While they will participate in the operational side of things, they should also work to leverage substantially more enforcement effort by engaging local enforcement staff and volunteers.

An Integrated Enforcement Task Force will not be sufficient by itself. It is vital that off-highway vehicle users, through their associations, continue their involvement. The Snowmobilers Association of Nova Scotia (SANS), the All Terrain Vehicle Association of Nova Scotia (ATVANS), and other associations should be encouraged to continue, increase, and expand their roles in policing their respective communities. Examples of these kinds of efforts include

- trail warden programs
- Citizens on Patrol Off-Road
- special constable status
- other citizen-based initiatives

Recommendations

1 Establish and fund a permanent Integrated Enforcement Task Force (not funded by the Trust Fund) of at least 12 additional full-time equivalent positions exclusively dedicated to the enforcement of off-highway vehicle laws and regulations and to the coordination of all off-highway vehicle policing activities involving federal, provincial, and municipal enforcement agencies.

2 Mandate the Integrated Enforcement Task Force to a) conduct enforcement blitzes at problem spots across the province, engaging regional and local enforcement personnel (as well as the self-policing community); b) systematically broadcast in print and electronic media the results of enforcement operations (arrests, fines, seizures, etc.); c) conduct educational outreach and community relations programs within the off-highway vehicle community in all parts of the province, to promote safe and responsible recreational use of off-highway vehicles; and d) establish and monitor a public toll-free incident reporting system.

3 Mandate the Integrated Enforcement Task Force to oversee the development of special programs in partnership with the user community and other groups, to support off-highway vehicle user self-policing in all regions of the province. These special programs can be funded by the Trust Fund.

4 Mandate the Department of Natural Resources to be lead agency for the Integrated Enforcement Task Force.

5 Amend legislation to a) extend the time during which an off-highway vehicle can be impounded to the court appearance date; b) increase the range of offences for which sanctions can include seizure and public auction sale of an off-highway vehicle to include particularly failure to stop for enforcement officials, operating under the influence of alcohol/drugs, using an off-highway vehicle to assist in committing a criminal offence, wilfully damaging or removing signage, operating in a park or other protected area; c) allow the application of driver's licence demerit points for serious off-highway vehicle moving infractions (such as speeding and unsafe driving); and d) significantly increase the fines currently in place and provide for a further increase for a second offence, with automatic vehicle seizure and public auction disposal for a third conviction for offences committed within a consecutive 12-month period.

Vehicle Registration

When we speak of "registration" and "registering your vehicle," we mean the entire process of obtaining a registration certificate that identifies the owner of the vehicle, acquiring a vehicle permit that allows the vehicle to operate in Nova Scotia, and affixing an identification number to the vehicle in the manner prescribed by the Registry of Motor Vehicles (Registry).

Enforcement personnel, landowners, and citizens must be able to readily identify an off-highway vehicle by its assigned licence number. Otherwise irresponsible operators will continue to take advantage of their anonymity. Without the likelihood of being identified, these people ignore the law and the rights of others. Full and proper registration of all off-highway vehicles is a basic requirement for personal accountability and effective enforcement.

Mandatory registration of vehicles with increased fees and yearly renewal also creates a new source of funds paid by users to develop trails and carry out other important off-highway vehicle projects.

What we heard

We heard that the enforcement community views a comprehensive registration system as a key ingredient for effective enforcement, because it enables them to identify machines and creates an administrative procedure to track off-highway vehicles. Without the prospect of identifying the vehicle owner, lawbreakers exhibit little or no concern for the property of others or respect for the law enforcement officials.

We recommended that all off-highway vehicles be registered with no exception. Currently, a vehicle operated on ones own property does not need to be registered. This creates a loophole because irresponsible owners will claim to operate on their own property only, to avoid the need to register their vehicle and display plates, and then proceed to operate their vehicles where they please. When these unregistered vehicles are then found unplated off their owner's property, enforcement officers have no means of identifying the owner.

While many agree with the intent of mandatory vehicle registration, some felt the increased fee would cause many more people not to register their off-highway vehicles. Others agreed with the $50 fee but felt there should be discounts for

- seniors – because many are on fixed incomes and use their off-highway vehicles less intensively
- club members – to encourage people to join organizations that promote responsible use
- snowmobiles – because they operate only a few months a year
- off-highway vehicles used for commercial purposes – because they create employment and don't make use of recreational trails
- off-highway vehicles used only on private property – because they don't interact with, or affect, others

We also heard that a $50 fee does not cover the true cost to society. Some respondents argued that if you consider the environmental, policing, heath care, and administrative costs associated with off-highway vehicle use in Nova Scotia, the government should be charging individual operators several times more. (See cost/benefit discussion on page 18.)

Others felt that $50 was excessive and pointed out that the Province of Nova Scotia and local businesses benefit from the sale of off-highway vehicles, trailers, trucks, safety equipment, supplies, and gasoline. They noted that service industries such as training suppliers, hotels, restaurants, and mechanical repair shops also benefit. And they suggested that the Task Force consider the valuable contribution these vehicles make around the home, as commercial tools, and for search and rescue. They argued that much of this contribution and commerce takes place in rural Nova Scotia where economic opportunities are limited.

We learned from the Snowmobilers Association of Nova Scotia (SANS) that the registration fee and Trust Fund we proposed had the potential to undermine its successful trail pass system. Snowmobilers now voluntarily pay a trail pass fee for the privilege of using the SANS network of managed trails. SANS and its members believe they should contribute to the Trust Fund, but say their contribution should be less. They also say that whatever they contribute should pay for increased enforcement.

The All Terrain Vehicle Association of Nova Scotia (ATVANS) agreed with the Task Force proposed registration fee provided the Trust Fund component of $40 per vehicle is held in trust, administered by those who have contributed, and spent on trails.

We received many comments about our recommendation on licence plates. We proposed that government make them bigger and make them a different colour and that they should be displayed at both the front and rear of the vehicle.

Respondents told the Task Force just how challenging this would be to implement. They said that manufacturers do not design off-highway vehicles to accommodate licence plates, particularly enlarged licence plates. We were told that bigger licence plates get covered with mud and snow just as easy as smaller plates. We also heard that the sport of motocross prohibits plates for safety reasons. Others said the new plates would be too expensive.

We heard from many who felt that the recommendations in the interim report had been too aggressive with respect to seizing, impounding, and auctioning off-highway vehicles.

And finally, while some who wrote to us raised concerns about a registration amnesty program, most who commented on this issue felt that we should make a stronger statement about putting this in place. Those opposed to this idea felt an amnesty program would result in stolen machines being legitimately registered.

Task Force analysis and conclusions

Registration

Registration of every off-highway vehicle will help give police agencies the solid foundation they need to do their jobs, because every vehicle can be identified and traced back to an owner. And strict adherence to this measure will reduce the market for stolen vehicles.

It is already mandatory to register an off-highway vehicle in Nova Scotia – if it will be used off the owner's property – and this is done only once. If the vehicle is sold to another person, that person must register it in their name. Otherwise, a registration certificate does not expire and does not have to be renewed.

To operate an off-highway vehicle in Nova Scotia off one's own property, it must have a vehicle permit. A licence plate is assigned to the vehicle when this permit is issued. Getting a plate is just part of that process. The vehicle permit must be renewed every year, at which time the Registry provides a new sticker that must be affixed to the licence plate.

Full participation

We discussed at length the exemption for vehicles used only on the owner's property. We concluded that without full participation in a mandatory registration system for all off-highway vehicles, enforcement officers would not have the solid foundation they need. The fact that just over half of the estimated 40,000 off-highway vehicles in Nova Scotia are currently registered speaks to the need to eliminate this significant loophole in the system.

Costs and benefits

We have not delved deeply into the complex discussion of whether or not more benefits than costs accrue to Nova Scotia from the recreational use of off-highway vehicles. Some argue that a study of the costs and benefits would support the position that recreational off-highway vehicle use should be promoted because of the economic benefits that accrue to the province, especially to small business in rural Nova Scotia. Others say the result would prove that government policy should intentionally discourage the use of off-highway vehicles for recreational purposes. They argue that the cost to society, including direct and indirect health care costs, outweigh this economic activity. Any such analysis would have to find a way to include the intangibles – the years of productive life lost due to death and disability, the cost of time off work by a parent caring for an injured child, the value of pristine spaces, the potential for noise-emitting off-highway vehicles to pre-empt other uses of spaces that depend on peace and quiet, our international reputation as a wilderness get-away – not just the obvious immediate economic costs and benefits.

We did not believe such an analysis would assist to any great degree in resolving the issues we face. No matter what the actual outcome, people would contest many of the assumptions. And the analysis would not likely change the minds of either enthusiasts or those who do not like off-highway vehicles. Many Nova Scotians choose off-highway vehicles as their preferred past time. We opted to focus on seeking a fair and reasonable balance between the desires of recreational off-highway vehicle users and the concerns of the society in which they operate.

SANS trail pass system

The Snowmobilers Association of Nova Scotia (SANS) is concerned that the Trust Fund could undermine its existing trail pass system. We make it clear in our revised recommendations that the Trust Fund and the recommendation on mandatory trail passes for users of SANS-managed trails must be implemented concurrently.

Licence plates

To display vehicle identification as prescribed by the Registry must become the norm. Displaying a valid licence plate shows the public that operators

- have contributed to the OHV Infrastructure Trust Fund
- have no reason to hide their identity
- do not fear being held accountable for their actions

We recognize the practical challenges of accommodating vehicle identification and believe some accommodation can be permitted when it comes to plate design and placement. Some off-highway vehicles, for example, should be allowed to employ a sticker version of the identification number at locations other than "front" and "rear." And for safety reasons, off-highway vehicles used in closed course competitions should require stickers instead of metal plates.

Amnesty for registration

We have heard from many off-highway vehicle owners who say they are willing to register their vehicle, but explain they cannot produce the necessary documents to prove ownership. For this reason, and because it is so important to have all vehicles registered, we have changed our recommendation on an amnesty registration program to say that this should be implemented, not just considered.

Recommendations

6 Enforce mandatory registration for all off-highway vehicles. Set the registration fee at $50 per vehicle per year: hold $40 in trust for the Off-highway Vehicles Infrastructure Trust Fund (see recommendations 21–23); retain $10 to cover the administrative costs of the Registry of Motor Vehicles (Registry).

7 Administer the registration system at the point of sale for new or used off-highway vehicles purchased at an authorized dealer and at the Registry for private transactions, with registration required within 30 days of purchase.

8 Make it mandatory for all off-highway vehicles to affix and clearly display two identification plates or stickers as issued by the Registry at the front and rear of each vehicle, or as prescribed by the Registry when vehicle design or use makes this impossible.

9 Issue plates or stickers that are larger than the current size, of a new colour, and reflective – to improve visibility for enforcement purposes and to distinguish the new system from the old.

10 Fine the operator of an unregistered off-highway vehicle $250 and provide enforcement agencies with the power to impound the vehicle, at cost to the owner, until valid registration documents are produced.

11 Implement for a period of six months an amnesty program for the owners of currently unregistered machines (model year 2000 and earlier) who cannot produce satisfactory documentation, as an incentive for the timely registration of all off-highway vehicles. Under the amnesty, collect a single HST payment from the current owner only (based on the present market value of the vehicle).

Driver Licensing

Another effective way to build-in personal accountability is to require that drivers acquire an endorsement to their automobile driver's licence for the operation of an off-highway vehicle or get a separate off-highway vehicle licence if they do not have an automobile driver's licence.

From an enforcement perspective, a driver's licence aids in the identification of the operator, permits an officer and the courts to track an operator's driving record, and, if necessary, allows for the awarding of demerit points or removal of driving privileges altogether.

A mandatory off-highway vehicle driver's licence also certifies that the operator has successfully completed the appropriate training, is capable of handling the vehicle, and knows the laws. For a discussion of safety and age restrictions, see page 34.

What we heard

Many in the off-highway vehicle community have argued that no other jurisdiction in Canada requires a driver's licence. They suggest that this is not a practical response and point out that there is no evidence to prove that requiring people to acquire a driver's licence will improve safety. These respondents believe that a combination of training and enforcement will accomplish the task force objectives.

Others support this direction on the basis that driver's licences would serve as a system of accountability for individuals. They question the capability of enforcement agencies and the courts to track individual driving behaviour without such a tool.

Many accepted the Task Force proposal for a driver's licence but believed it would take too much time and effort to get one. As a way to alleviate this concern, several submissions suggested that the Registry could allow a certified trainer to adjudicate the testing and award temporary driver's licences. In this way a person could take training and acquire a driver's licence in one day, from the same place.

Our interim report advised government to develop a handbook that would serve as a standardized educational package covering all aspects of off-highway vehicle use. Many respondents agreed with the concept of a handbook, but questioned if this could be done in 2004 as proposed in the interim report.

Task Force analysis and conclusions

Driver's licence
Regarding automobile licences, society accepts that

- the applicant must pass written and practical tests that demonstrate knowledge and safe driving ability before an automobile driver's licence can be obtained
- a person's driver's licence will be used by the government, courts, and enforcement agencies as a way to monitor driving behaviour
- a person's driving behaviour can be modified through the awarding of penalties, demerit points, and the possible loss of driving privileges

A similar system should be implemented for off-highway vehicle drivers. An off-highway vehicle driver's licence will enable enforcement officers to identify operators, track an operator's safe driving record, and verify that each operator has demonstrated knowledge of existing laws and safety requirements. *Furthermore, much of the necessary infrastructure required by the Registry is already in place.*

Creating a streamlined system for OHVs

The process of acquiring an off-highway vehicle driver's licence can be made simple. The Registry could certify third parties to administer written and practical (driving) tests, such as those people who will be offering accredited training courses throughout the province. In this way a person could attend a training course, take the tests, and receive a temporary driver's licence all in one day.

An off-highway vehicle licence could be added to a driver's current automobile licence, as is done for motorcycles in the province. A person's automobile driver's licence would then show that they have off-highway vehicle driving privileges through an endorsement. For those without an automobile licence, a separate off-highway vehicle licence would be available.

Off-highway vehicle driver handbook

A driver's handbook for the major off-highway vehicle types would be an invaluable educational tool. This handbook should be the foundation document upon which training and driver licence testing is based. The handbook should address the following subjects:

a) the safe and responsible operation of the off-highway vehicle types
b) the general off-highway vehicle regulations
c) the laws protecting landowners (public and private) and the rules for access
d) the code of conduct on trails
e) a list of environmental regulations and descriptions of ecologically sensitive areas
f) illustrations of damaging off-highway vehicle impacts on land outside designated trails
g) the compendium of possible infractions

Recommendations

12 Implement a mandatory off-highway vehicle driver's licensing program. Restrict fully licensed drivers to persons 16 years of age and older with either an automobile driver's licence endorsed for off-highway vehicle use or a separate off-highway vehicle licence for those without an automobile licence. (See Recommendations 26–28 for other age-related provisions.)

13 Publish an off-highway vehicle operator handbook in support of the licensing system that covers the following: a) the safe and responsible operation of the off-highway vehicle types; b) the general off-highway vehicle regulations; c) the laws protecting landowners (public and private) and the rules for access; d) the code of conduct on trails; e) a list of environmental regulations and descriptions of ecologically sensitive areas; f) illustrations of damaging off-highway vehicle impacts on land outside designated trails; and g) the compendium of possible infractions. Develop a written test based on the operator handbook.

Infrastructure

An underlying cause of many concerns relating to the recreational use of off-highway vehicles can be attributed to insufficient places for enthusiasts to drive and also a lack of emphasis on making sure operators stay out of protected and ecologically sensitive areas.

A designated network of off-highway vehicle trails and areas can and should be accommodated on selected public land and on private land with permission. To develop this network at the required rate, it must be based on a user-pay system. An Off-highway Vehicles Infrastructure Trust Fund (Trust Fund) should be established with money collected from users at time of registration.

Policies should strengthen provincial off-highway vehicle associations and empower them to develop and manage trail networks. Off-highway vehicle enthusiasts, their clubs, and their provincial associations must be central players in resolving existing and future conflicts. They must be central players every step of the way.

Designated Off-highway Vehicle Trails and Areas

Thousands of kilometres of trails exist throughout the province, but outside the system of SANS-managed trails, some sections of abandoned railway corridor, and a limited number of ATVANS-sanctioned ATV trails, trail users have no way to know where they may legitimately go. Back country land is not marked with owners' names. Restricted or protected areas may not be clearly identifiable.

We propose that Nova Scotia formally establish a provincial network of off-highway vehicle trails and areas on public land and private land with permission. This will allow decisions about where trails and areas are developed to involve many and be paid for by off-highway vehicle users through the vehicle registration system. Off-highway vehicle drivers should largely be limited to this network. Areas that are off-limit to off-highway vehicles must be clearly communicated to all.

The scope for what off-highway areas might look like is wide. They could potentially include full-service camping facilities with a self-contained network of trails and designed spaces where operators can experience a wide variety of terrain.

What we heard

The need for legitimate places to ride an off-highway vehicle rated as a priority for many participants, ranging from the irate landowner to the responsible enthusiast.

In response, our interim report offered a fundamental land use development framework for the recreational use of off-highway vehicles. We recommended a designated provincial network of off-highway vehicle trails and park areas and highlighted various types of public land that should be eligible for inclusion as follows:

- general Crown forest land
- culverted gravel woods roads and culverted gravel K-class roads
- abandoned railway corridors
- highway rights-of-way ditches
- public roads – crossing of the road or travel for short distances along the road shoulder

We heard that the off-highway vehicle community would welcome the idea of a designated network of trails and areas, but that they did not want their activities limited to these places only. They argued that such a trail network would not accommodate many of the activities they have become accustomed to doing with their off-highway vehicles. They cited access to a camp, commercial fish harvesting, trapping, recreational hunting and fishing, or simply visiting a neighbour as examples.

Many respondents embraced the idea of keeping off-highway vehicles in designated places, while others argued for the need to control the extent of the network.

Many people said "under no circumstances" should any off-highway vehicle traffic be allowed on portions of abandoned railway corridor used for the Trans Canada Trail. Others recognized that motorized users are many times the primary force behind the development of trails in rural areas.

Our interim report said that municipalities should make the decision on whether off-highway vehicles can access abandoned railway corridors through their residential areas. A number of respondents said that if municipalities have the final say in the use of abandoned railway corridors, then the dream of having a continuous trail from one end of Nova Scotia to the other will be lost completely, and so will the potential for tourism and jobs. Because of this, they say, when municipalities deny access, alternate routes must be built.

We also heard about the difficulty to accommodate off-highway vehicle access on abandoned railway corridors through residential areas. For many, the corridor is right on their doorstep, making noise and dust a daily concern.

We also heard that the province (not municipalities) should establish standards for construction and rules of operation for multi-use trails that accommodate off-highway vehicles. These people say that municipalities could pass more restrictive bylaws as long as they are based on provincial standards.

Task Force analysis and conclusions

Designated network of off-highway vehicle trails and areas

In Nova Scotia, as is the case across much of North America, off-highway vehicles are used increasingly for recreation. This has become a primary recreational pursuit for many, particularly in rural areas. But with the general exception of the Snowmobilers Association of Nova Scotia (SANS) managed trail network and recent initiatives by the All Terrain Vehicle Association of Nova Scotia (ATVANS), there has been little collective effort or investment in developing appropriately designed trails for off-highway vehicles.

Off-highway vehicles are being used today as an alternative form of transportation for many people who very often unilaterally decide where the next "road" will go – no consultation, no environmental review, and no consideration for the property owner.

We are concerned about the physical impact of the current numbers of machines. Over the previous four years, an average of 4600 new all-terrain vehicles have been sold in Nova Scotia each year. Should this rate of sales continue, or increase, the potential for social discord and environmental damage may grow accordingly.

SANS has developed a growing network of managed trails in partnership with public and private landowners. These trails are maintained and groomed by a combination of user fees and volunteer labour. This is a model that other off-highway vehicles can emulate.

Work has also been done by ATVANS to spearhead the process of managed trail development. They have also worked to encourage and promote education to riders about safety, landowner rights, and importance of an integrated trail network. However, not enough all-terrain vehicle users are involved in the association and in managed trail development.

To avoid environmental and aesthetic damage and to ensure the integrity of protected areas, off-highway vehicles must be limited largely to a designated network of trails and areas. In saying this, it becomes imperative that such a vision becomes reality in a reasonable period of time. Random use of off-highway vehicles anywhere on public and private land must stop.

We say "largely" because we agree with those who argue that without some flexibility in this system, many legitimate off-highway vehicle activities could not be accommodated. Examples of activities requiring such flexibility include crossing public land to get to a privately owned camp, commercial trapping, commercial fish harvesting, commercial farming and forestry, search and rescue, and scientific research.

While these and possibly other desirable activities should be accommodated, we recommend that the Department of Natural Resources manage this through an official permit system, to avoid abuse.

Lead government agency

The Sport and Recreation Division of the Office of Health Promotion (Sport and Recreation) is an appropriate agency to oversee, coordinate within and outside government, and support the development of the designated network of off-highway vehicle trails and areas.

We are further recommending that Sport and Recreation give priority to the development of cost-effective provincial construction standards (including maintenance) for trails and areas that accommodate off-highway vehicles. It should at the same time facilitate the creation of provincial rules of operation, addressing such issues as speed, type of off-highway vehicle (including size, width, and weight), hours of operation, and time-of-year restrictions.

Eligible types of public land

The following categories of public land, in conjunction with private land with permission, should be eligible under certain conditions:

- general Crown forest land
- culverted gravel woods roads and culverted gravel K-class roads
- abandoned railway corridors
- highway rights-of-way ditches
- public roads (to cross or travel on the shoulder for short distances to connect with a designated trail)

We do not mean to say that all general Crown forest land, K-class roads, abandoned railway corridors, ditches or public roads should be open to off-highway vehicles. Rather that (under specific conditions set by the relevant government authority) each of these types of public land should be eligible components from which a trail or area can be composed.

In addition to general Crown land with no specially assigned status, we believe *culverted gravel woods roads* and *culverted gravel K-class roads* could form a component of any designated trail or area, if the commercial or automobile activity does not pose a significant hazard. The Department of Transportation and Public Works must be involved in assessing each of these roads before they are listed as part of the off-highway vehicle network.

K-class roads are those listed as abandoned. They remain as a public right-of-way under the administration and control of the Department of Transportation and Public Works, but are no longer maintained year-round. They vary in condition. Some are gravel roads, some mere trails, and others completely covered by trees and no longer discernable.

We also believe that *abandoned railway corridors* could be used by off-highway vehicles, again with conditions attached. The Province of Nova Scotia, as the primary landowner of these corridors, has adopted a rails-to-trails policy. Since that time, the Department of Natural Resources has entered into agreements with local trail organizations to manage sections of the corridor. Trail organizations must demonstrate community consensus for the intended use. Off-highway vehicles do not have to be accommodated but, in many cases, this does occur.

We believe that as a provincial policy in rural areas off-highway vehicles could generally be permitted on segments of railway corridors if they are not too close to individual residential properties. However, along residential sections of abandoned railway corridors, we recommend a different approach.

Despite the requirement for trail organizations to demonstrate community consensus on the intended use of these abandoned railway corridors, we question the diminished role of municipal governments in the decision-making process. For example, we understand that for a municipality to control the use of an abandoned railway corridor through its residential core, it must apply to the province to become the trail manager for that particular section.

While community groups may ultimately manage the day-to-day operations of a section of abandoned railway corridor, we do not believe that they represent a legitimate avenue through which a final decision on off-highway vehicle access should be made. This decision must be made at the local level by municipal governments who can be held accountable, by the residents, for their actions.

We believe that provincial standards are required for rules of operation pertaining to off-highway vehicles on single-use or multi-use trails. Once developed, each municipality allowing off-highway vehicle traffic must ensure the provincial standards are being enforced. Municipalities can do this directly or in conjunction with other policing agencies and with self-policing groups.

Several sections of abandoned railway corridors now being used by off-highway vehicles do not have adequate controls in place. In these cases the Task Force recommends that the responsible authorities immediately review the right of access for off-highway vehicles. This should take place particularly for sections of abandoned railway corridor west of Halifax through to Martins River, Lunenburg County.

Where access for off-highway vehicles on abandoned railway corridors can't be accommodated, every possible effort should be made to find a satisfactory alternate route around the prohibited area.

We agree with those who told us they were concerned about the random use of our *highway rights-of-way ditches*. Existing legislation now gives off-highway vehicles conditional access to highway ditch areas. While this law "gave an inch," irresponsible users have proceeded to "take a mile." Random use of the entire highway rights-of-way, including the median areas between twinned sections of highways, is commonplace.

Snowmobilers Association of Nova Scotia groomer at work.

We consider uncontrolled use of the entire highway rights-of-way to be unsafe for both the traveling public and the off-highway vehicle operators. Beyond the central issue of safety, this situation has created an unsightly mess. And during rainstorms the resulting mud paths generate a great deal of siltation in brooks, rivers, and streams.

While we believe that highway rights-of-way ditches can be used to provide links between sections of designated off-highway vehicle trails, we believe this should take place in accordance with conditions prescribed by the Department of Transportation and Public Works. And furthermore, we believe that over time any section of the highway rights-of-way incorporated in the designated trail network must be brought up to appropriate safety and environmental standards. The Department of Transportation and Public Works and the user community should collaborate to make this happen.

We have heard that if only off-highway vehicles were allowed access to secondary road systems, then all the problems would be solved. In July 2003, municipalities in Ontario were given the authority to determine whether or not off-road vehicles should be allowed access to highways under their authority. We refer to a letter from the Canadian All-Terrain Vehicle Distributors Council to the Ontario Road Safety Program Office that says, "We have previously stated and must state again, that ATVs are not designed for use on roads. Allowing ATVs into the vehicular traffic mix is needlessly exposing ATV operators to danger." And, we would add, needlessly exposing the motoring public to danger.

The Nova Scotia Department of Transportation and Public Works provided the Task Force with data showing the number of motor vehicles involved in collisions with off-highway vehicles by severity and year. In the five-year period 1998–2002, collisions occurring on public highways and commercial property with public access involving off-highway vehicles (not including snowmobiles) resulted in 8 deaths and 156 injuries. For the same period, one death and 12 injuries were reported as a result of motor vehicle collisions with snowmobiles.

We recommend that off-highway vehicles continue to be generally prohibited from accessing *public roads*, with only limited access granted to cross roads and travel along the shoulder of a road for short distances when this is required to connect with a designated trail. This should only be done on terms and conditions acceptable to the Department of Transportation and Public Works.

Recommendations

14 Develop a network of designated trails and areas (on public and private lands with permission) for the recreational use of off-highway vehicle users. Limit off-highway vehicle activity on public land to this network unless otherwise authorized by Department of Natural Resources issued permits.

15 Designate the Sport and Recreation Division of the Office of Health Promotion as the lead government agency charged with overseeing, coordinating within and outside government, and supporting the development of the designated network of off-highway vehicle trails and areas.

16 Mandate the Sport and Recreation Division of the Office of Health Promotion to oversee the development of a) provincial construction standards (including maintenance) for single-use and multi-use trails that accommodate off-highway vehicles and b) provincial rules of operation for off-highway vehicles on designated off-highway vehicle trails and areas, such as speed, type of off-highway vehicle permitted (including size, width, and weight), hours of operation, and time-of-year restrictions.

17 Include culverted gravel woods roads on public land and culverted gravel K-class roads on public land as potential components of a designated network of off-highway vehicle trails and areas with conditions that may be required, such as usage prohibitions during spring thaw or during periods of forest fire hazard.

18 Include abandoned railway corridors as a potential component of a designated network of off-highway vehicle trails and areas under the following conditions: a) In rural areas, permit off-highway vehicle access as a general rule, but consider proximity to residences. b) In residential areas, give municipal governments the authority to allow or prohibit off-highway vehicle traffic on abandoned railway corridors. c) Charge the municipal governments with the responsibility of enforcing provincial rules of operation for off-highway vehicles on abandoned railway corridors, either directly or in conjunction with other policing agencies or self-policing groups, and allow municipal governments to set community-specific rules over and above provincial standards. d) Require the appropriate authorities to immediately review the right of access for off-highway vehicles to sections of abandoned railway corridors exhibiting questionable ability to maintain order. Review particularly those sections of abandoned railway corridors west of Halifax through to Martins River, Lunenburg County. e) Make every effort to develop alternate trails around the prohibited area when access to abandoned railway corridors cannot be accommodated.

19 Include highway rights-of-way ditches as a potential component of a network of off-highway vehicle trails and areas in accordance with conditions prescribed by the Department of Transportation and Public Works and enable the user community to bring ditches incorporated in the designated network of trails up to appropriate safety and environmental standards.

20 Reinforce the prohibition on all public roads for off-highway vehicles except for the following when incorporated as part of a designated trail or area on terms and conditions acceptable to the Department of Transportation and Public Works: a) to cross a public road at planned and well-signed locations b) to travel on the shoulder for short distances when such areas are appropriately signed to alert other users of the public road.

OHV Infrastructure Trust Fund

While we expect government to fund the Integrated Enforcement Task Force, we believe that users should pay to create an Off-highway Vehicles Infrastructure Trust Fund (Trust Fund) as a way to facilitate self-investment and self-governance.

This section of our report describes how to allocate the revenues from the Trust Fund and the management structures required.

What we heard

Many submissions to the Task Force have criticized our proposal to increase the annual registration fees from $10 to $50, calling it a "tax grab" by the government. They assume that the government will indeed raise the fees but will not invest the proceeds as intended.

We proposed that $40 of a $50 dollar annual registration fee for off-highway vehicles be directed to the Trust Fund. This $40 would finance projects related to off-highway vehicle trail system development, core funding of off-highway vehicle user associations, operator health and safety, operator training, enforcement (self-policing), and environmental education and demonstrations projects.

A number of people making submissions said that our initial recommendation on the structure of the Trust Fund would result in the creation of a wasteful bureaucracy, not unlike the national gun registry. Others made the point that not enough funds would go to trail network development since we identified other areas for which funding should be made available. They felt this would dilute the effectiveness of the Trust Fund.

Some respondents called on the Task Force to withdraw our recommendation that asked government to make a $500,000 investment of public funds to establish the Trust Fund. These people said that the user-pay principle should apply immediately as this is a recreational activity, not necessary public infrastructure.

Snowmobilers responding to the Task Force were very concerned that a mandatory trust-fund fee would undermine their now successful (but voluntary) trail pass system. They say that snowmobilers may face paying a mandatory trust-fund fee at registration time and then be asked to ante up another fee to access the SANS's managed trail network. The Snowmobilers Association of Nova Scotia (SANS) told the Task Force that this would be perceived by its members as paying twice for the same thing.

Other respondents told us that none of the Trust Fund dollars should go toward establishing or contributing to the operating costs of our proposed Integrated Enforcement Task Force. They see this as government's responsibility for which ample tax is already collected.

Task Force analysis and conclusion

We believe it is imperative to create a Trust Fund (paid for by the users) that makes money available for

- developing and improving a system of managed designated trails and areas
- the core funding of off-highway vehicle user organizations
- initiatives related to health and safety, education and training, self-policing, and environmental demonstration projects

The Trust Fund and its executive committee would accelerate the development of an off-highway vehicle trail network; create a single focus for all future policies, programs, and activities related to off-highway vehicle use in Nova Scotia; stimulate dialogue and understanding between stakeholders; and provide a single point of interface with government on off-highway vehicle matters.

Should the government decide not to reinvest these new revenues in the Trust Fund, *there would be no reason to increase the fees in the first place.* In other words, we are as opposed to a "tax grab" as are the critics.

In response to what we heard, we have amended our recommendations to make it clear that the non-government members of the Trust Fund Executive (including the chairperson) would do this as unpaid volunteers. We also make it clear in our recommendation that decisions should be made by the Trust Fund Executive. The Chairperson of the Trust Fund should not make decisions independent of this executive body.

SANS concerns

We believe that snowmobilers should participate in the Trust Fund to the same level as other off-highway vehicle types. To make sure the Trust Fund does not undermine the Snowmobilers Association of Nova Scotia (SANS) trail pass system, the trail pass system should become mandatory at the same time that the Trust Fund is established.

And since SANS has already developed an extensive trail network and has developed successful management approaches to this system with landowners, the Task Force proposes that $30 of the $50 fee for each registered snowmobile be provided as a block grant to SANS to maintain and expand its established network of managed trails.

For all other off-highway vehicle types, the Task Force proposes that $30 of the per vehicle registration fee be managed by a sub-committee of the Trust Fund Executive for infrastructure development purposes. This sub-committee should be composed of representatives from SANS, ATVANS, the Nova Scotia Trails Federation, and the Sport and Recreation Division of the Office of Health Promotion (Sport & Recreation) in an ex-officio, non-voting role. An ex-officio and non-voting role is appropriate for Sport and Recreation because the off-highway vehicle users will be the sole contributors to the Trust Fund.

The entire Trust Fund Executive should manage the portion of the Trust Fund ($10 per vehicle per year) allocated for non-infrastructure purposes as initially proposed in the interim report, for initiatives related to health and safety, training and education, enforcement (self-policing), and environmental demonstrations projects.

The remaining $10 component of the annual registration fee should to go to the Registry for administrative expenses (as it does now).

Trust Fund start-up contribution by government

Based on the arguments made in submissions to us, we have rescinded our proposal to request that government provide the Trust Fund with a start up grant of $500,000. We did this to emphasize that trail development should be based on the principle of user pay. And we wanted government to focus its investment efforts exclusively on establishing and supporting the Integrated Enforcement Task Force.

The Trust Fund is not designed to support the Integrated Enforcement Task Force. However, we do recommend that a portion of the Trust Fund go towards supporting self-policing programs.

Recommendations

21 Establish an Off-highway Vehicles Infrastructure Trust Fund (Trust Fund) for an initial period of five years managed by an executive committee consisting of a volunteer chairperson, volunteer members (including representatives from umbrella associations of off-highway vehicle enthusiasts, the medical and safety profession, the environmental sector, landowners, and the enforcement community), and non-voting officials representing lead government departments. Mandate the Sport and Recreation Division of the Office of Health Promotion to act as the Secretariat to the Trust Fund and the Executive Committee.

22 Hold $40 of the $50 annual registration fee of each off-highway vehicle in Nova Scotia in trust, with $30 per vehicle per year to be assigned to trail development and maintenance and to the core funding of off-highway vehicle user organizations, and $10 per vehicle per year to be assigned to projects related to operator health and safety, education and training, self-policing on trails by users (not regular or special off-highway vehicle work carried out by enforcement agencies) and environmental demonstration projects.

23 Give the Trust Fund and its Executive Committee a general mandate to oversee the implementation of the government's response to this report, to make decisions on project funding, to facilitate conflict resolution, and to report annually on the progress made in managing off-highway vehicle issues. More specifically, in establishing and structuring the Trust Fund Executive Committee,

- Assign to the Executive Committee as a whole the responsibility to develop and publish the blueprint of a comprehensive off-highway vehicle trail network for Nova Scotia that is based on inclusive consultations, negotiations, and public review.

- Assign to the Executive Committee as a whole decision-making powers on the funding of all projects that are not directly related to trail development and maintenance.

- Establish a Trail Development Sub-Committee of the executive – consisting of the Trust Fund Chairperson, representatives from SANS, ATVANS, the Nova Scotia Trails Federation, and a non-voting representative from the Sport and Recreation Division of the Office of Health Promotion – and assign to it decision-making power on the approval and funding of trail development and maintenance projects; SANS should be provided with an annual block grant of $30 per registered snowmobile per year to maintain and expand its established network of managed trails.

Trail Management

Individuals and members of clubs or provincial associations willingly volunteer their time and resources to build, maintain, and manage trails. They need to be supported in these efforts by legislation that gives them a way to collect fees for the use of these trails, prevent unwelcome off-highway vehicle traffic, and make sure users acquire insurance to protect others.

While this section of our final report may at first only benefit the Snowmobilers Association of Nova Scotia (SANS), we believe that eventually all types of off-highway vehicles will be able to take advantage of this legislation.

What we heard

SANS has taken many years to develop into the professional organization that exists today. And while much progress has been made, we heard that this organization can go even further to make Nova Scotia a destination for snowmobile enthusiasts, if it is given the tools needed to better manage its trails.

We suggested in our interim report that government should assist SANS by empowering off-highway vehicle umbrella organizations who manage a trail network to a) implement a mandatory trail pass system, b) prevent unauthorized off-highway vehicle access to their trail network, and c) make third-party liability insurance mandatory for users of their trail network.

This recommendation was positively received.

Many respondents agree that umbrella organizations like SANS and ATVANS need to be supported, because they act as focal points for responsible use.

Enforcing a mandatory trail pass system will provide organizations with the security of knowing that their efforts will not be abused by unintended use.

We heard from many trail managers that the escalating cost of liability insurance is one of the greatest challenges they face. They feel that if individuals carry personal third-party liability insurance then this may go a long way to controlling the cost of trail insurance for the builders and managers of trails.

Task Force analysis and conclusions

Background

The provincial government should continue to support the non-profit organizations, individual trail committees, and umbrella organizations that are working to improve the off-highway vehicle experience.

Recreational use of all-terrain vehicles has grown faster than anticipated and has caused organizational and public concern. Promotion of organized club involvement, availability of all-terrain vehicle rider safety programs, development of signed trails with landowner permission, and various educational tools are all initiatives for which ATVANS should be commended. But more is needed in terms of the level of activity and the size of the association's membership. Simply put, Nova Scotia needs a strong all-terrain vehicle association if progress is to be made.

We believe that today is also a critical time in the continuing growth and development of SANS. It has a managed trail network crossing both public and private land in a manner that respects the environment. SANS provides a successful working model from which to base the future development of an off-highway vehicle network of trails and areas.

In developing its trails, SANS relies heavily on a principle of user pay. It seeks permission from all landowners for the ability to have association members use the trail. It provides landowners with the security of a trail insurance policy. It grooms, properly signs, and patrols its trails to ensure a standard quality and effective control – SANS manages its trails. And, to the greatest extent possible, SANS encourages walkers, hikers, skiers, and equestrian enthusiasts to use its trails. There are instances of off-season use of SANS trails under formal agreement with ATVANS.

Mandatory trail passes

We endorse the idea of mandatory trail passes for access to the SANS's managed trail network. This will ensure that the users make a financial contribution to the construction and maintenance of the places managed by others for their enjoyment. When other organizations, such as ATVANS, get to the point of having a "trail product," they too should be able to take advantage of mandatory trail passes for their membership.

Limiting access to trails

SANS requires legislative support to prohibit certain users from their network of trails. Other off-highway vehicles on managed trails create dangerous icy ruts for snowmobiles. In the summer, unauthorized use of SANS trails by other off-highway vehicles can result in the landowner withdrawing their permission for anyone to use the property. And just one property owner can cause an entire snowmobile route to close. The ability to prohibit certain users gives the association the control needed to limit its liability risk and the cost of insurance for trail managers.

Third-party liability insurance
Requiring members to carry individual third-party liability insurance is equally legitimate. Trail managers should not have to bear the burden of paying for incidents that occur on their trails as a result of actions by trail users.

Recommendations

24 Amend legislation to make the SANS trail permit system mandatory on trails established and maintained by the organization at the same time as the Off-highway Vehicles Infrastructure Trust Fund is established, with the following provisions: a) require all snowmobiles to display a trail permit when using a SANS-managed snowmobile trail b) make unauthorized off-highway vehicle use of SANS trails an offence (to avoid damage to trails and damage to relationships with landowners) c) make third-party liability insurance mandatory for all motorized vehicle users of SANS trails d) impose a fine of at least $250 for failing to comply with the above requirements, which would increase in severity for subsequent offences. Enable other organizations (such as ATVANS) to take advantage of such a permit system once they develop a comparable managed trail network.

Rally Management

When off-highway vehicles assemble for a rally the potential exists for unintended effects. Unless these events are properly planned in advance, participants may cause environmental damage, interact with automobile traffic, cross private property without permission, or operate their vehicles under the influence of alcohol.

So that these consequences can be mitigated, we propose that a permit for such events be a mandatory requirement for all rallies and that umbrella associations like the All Terrain Vehicle Association of Nova Scotia (ATVANS) or the Snowmobilers Association of Nova Scotia (SANS) be responsible for issuing the permit.

What we heard

Our interim report recommended that rallies involving more than 50 off-highway vehicles should require a mandatory permit issued by an umbrella organization such as SANS or ATVANS. We said that the approval process for these events should ensure that all necessary permissions have been received from landowners, all possible precautions have been taken to protect the environment, and the appropriate enforcement authorities have been notified.

Provincial off-highway vehicle associations agreed with this recommendation but, like many other respondents, they questioned the arbitrary number of vehicles that would trigger the requirement for a permit. They advised us to subject any organized off-highway vehicle rally to a mandatory permit.

While some of the respondents to our the interim report cited this recommendation as a classic example of red tape, most agreed that this is a situation where some control measures would benefit everybody.

Others discussed with us the abuse of alcohol that still takes place in some situations. And many respondents talked about the damage that can occur in a very short period of time if the rally takes place on soft ground.

We also heard just how often these events raise much-needed dollars for trail and club development, and the many important community causes that benefit from the generosity of the participants.

Task Force analysis and conclusions

After further deliberations, we now recommend that any off-highway vehicle rally should require a mandatory permit. This avoids setting an arbitrary figure on the number of vehicles and all the guesswork that this might entail. The permit system should be managed by umbrella organizations. And the approval process should ensure that all necessary permissions have been received from affected landowners, that the event organizers have taken all reasonable precautions to protect the environment, and that local enforcement authorities have been notified.

Recommendations

25 Amend legislation to establish a mandatory permit requirement for all off-highway vehicle rallies, to be managed by umbrella organizations such as SANS or ATVANS. The approval process should ensure that all necessary permissions have been received from affected landowners, that the event organizers have taken all necessary precautions to protect the environment, and that local enforcement authorities have been notified.

Snowmobilers Association of Nova Scotia trail wardens checking for trail permits.

Safety

In light of the significant risk of injury and death posed by the recreational use of off-highway vehicles, we propose restrictions for their use based on age. These address the conditions under which 14- and 15-year-olds may operate off-highway vehicles as well as the management regime required for closed course activities involving children under that age.

To make sure off-highway vehicle participants get the benefit of the best safety training available, we propose a mandatory accredited training program for all drivers on a phased-in basis. While safety will be the prime focus for the training program, educational components will address other important aspects of relevance to all off-highway vehicle operators.

Age of Drivers

Driver's licences endorsed for off-highway vehicle use should be used to impose age restrictions on participants to this activity. While fully licensed drivers should be 16 years of age and older, those aged 14 and 15 should have the opportunity to drive under strict conditions.

We propose that children younger than 14 years of age have the opportunity to ride off-highway vehicles, either recreationally or in sports such as motocross, if they do so on closed-courses under the auspices of a credible sanctioning organization and with a system of safeguards in place.

What we heard

On the whole, our interim report position on age was well received. We concluded that the minimum age to operate an off-highway vehicle should be 16 years, but that youth aged 14 and 15 be permitted to drive under the following strict conditions:

- possession of a Youth Class off-highway vehicle Learner's Licence
- accredited off-highway vehicle training course taken by both the youth and their parent or guardian
- mandatory direct supervision (in the company of and within sight of) the parent or guardian at all times while operating the off-highway vehicle

Medical and safety organizations, enforcement agencies, and an impressive number of the individual responses supported our position that "the cognitive and physical capacities of children are simply not sufficiently developed for them to consistently use these machines safely, competently, and responsibly."

The Nova Scotia Safety Council, Child Safety Link (the Maritime-wide child injury prevention program), and the Nova Scotia Trauma Program each stated that, without exception, children under the age of 16 years should not operate all-terrain vehicles. More recently, the Canadian Paediatric Society, mirroring the position of its American counterpart, the American Academy of Pediatrics, released its position statement, also advocating a strict 16-year age limit, and recommending that this be adopted as a standard across the country. And while the Canadian Agriculture Safety Association recognizes the importance of all-terrain vehicles for use in agriculture, they note that these machines represent a significant cause of injury to adults and especially to children on Canadian farms.

In addition and for the same reasons, the Canadian Paediatric Society and the American Academy of Pediatrics have recommended the same strict 16-year age limit be applied to operators of snowmobiles.

The enforcement community also raised strong concerns on the subject of children operating off-highway vehicles. They believe that the vehicles have too much power and that many times they are being used as "babysitting tools" – meaning that children ride unsupervised. When it comes to safety and enforceability, the consensus among the enforcement community was that a strict age limit of 16 should be imposed.

The motocross community in Nova Scotia has expressed concern that the age restrictions as drafted in the interim report would virtually shut down their sport since children five years of age and above currently participate in competitions throughout Atlantic Canada. Motocross is typically conducted on closed courses that are carefully designed and maintained. Children are supervised directly by adults, and their parents must sign a waiver to allow them to participate. High quality protective gear and training are mandatory, and all children are closely monitored to ensure that they are operating a properly sized bike.

Many of those opposed to the Task Force position on age already own (or plan to purchase) an off-highway vehicle for their children or grandchildren. While they may accept prohibiting children from operating off-highway vehicles on public trails, many do not accept restrictions that would make it illegal for their children to drive on private property. They, along with the Canadian All-Terrain Vehicle Distributors Council (CATV), believe that children age six and up can safely ride appropriately sized off-highway vehicles if they are properly supervised.

Some respondents agreed with allowing 14- and 15-year-olds to operate off-highway vehicles, but believed there should still be legislated restrictions imposed on the size and power of the vehicles they are permitted to operate.

In our interim report we recommended a severe penalty for registered owners who allow underage children to drive off-highway vehicles. We suggested six demerit points be applied to the registered owner's drivers licence and a $500 fine. For a second offence we recommended seizing, impounding, and selling the vehicle at public auction.

We heard from many people who felt these penalties were excessive. They questioned the severity of $500 and, particularly, the application of six demerit points. We also heard from many in the user community that seizing an off-highway vehicle and selling it at public auction was not acceptable.

Task Force analysis and conclusions

Background

Across Canada, the injuries resulting from off-highway vehicle use are significant. For the years 2001 and 2002, a total of 283 Canadians died from injuries related to off-highway vehicles. Thirty of these fatalities were children between the ages of 1 and 14 years.

In the 2001–02 fiscal year, 2535 Canadians were hospitalized due to ATV injuries alone; 36 per cent of these were children and youth. This represents a 50 per cent increase since 1996–97. The greatest increases were seen in the provinces of Nova Scotia, New Brunswick, and Alberta. By comparison, injuries due to automobile crashes dropped by 14 per cent over the same period.

Just as concerning, we know that for every incident resulting in hospitalization, many more require treatment in emergency rooms across the country.

Off-highway vehicles are the number one cause of recreation-related major injuries in Canada, representing 30 per cent of sports and recreation injuries in 2001–02. By comparison, cycling, which is done by a far greater number of people, resulted in only 19 per cent of such injuries.

From 1991 to 2003, 105 Nova Scotian children under the age of 16 required hospitalization for injuries related to all-terrain vehicles at the IWK Health Centre, our province's Pediatric Trauma Centre. The vast majority of these were serious orthopedic or head injuries, or both, and 20 per cent required treatment in the intensive care unit.

Large studies from the United States have shown that the numbers of injuries from ATVs have been increasing dramatically over the past years in all age groups. For those between the ages of 12 and 15, injuries have increased by 76 per cent between 1997 and 2001, while injuries for children under the age of 6 years have more than doubled.

Over the past 5 years, the average number of children admitted per year to the IWK for ATV injuries has also increased, almost tripling compared to previous years. In the summer of 2003, just before this task force was struck, one quarter of the trauma patients admitted to the IWK intensive care unit were injured from all-terrain vehicles, which was similar to the number injured in automobile crashes.

Between 2000 and 2003, 4 Nova Scotia children have died from injuries related to all-terrain vehicles, representing 40 per cent of all all-terrain vehicle deaths. Over the same time period, several children have become seriously disabled from head injuries related to all-terrain vehicles.

These serious injuries are not just limited to Nova Scotia. In Alberta, over the past 5 years, 34 people have died from all-terrain vehicle injuries, 13 of these (38 per cent) were children under the age of 16 years.

We have heard the argument that more children get injured riding bicycles or playing baseball. While this is true, it is only part of the story. Many more children ride bikes and play baseball than operate ATVs. And, more notably, the majority of these injuries are minor, do not require hospitalization, and do not result in death.

Both the rate of injuries and the degree of seriousness of the injuries is much higher for ATV use. Several studies have shown that ATV injuries are far more severe than other recreation-related injuries such as cycling. For example, they are 12 times more likely to result in hospital admission and 6 times more likely to result in death than bicycle injuries.

Similar findings have been seen at the IWK, where although bicycling injuries are seen in the emergency department at least 7 times more often than ATV or dirt bike injuries, ATV and dirt bike injuries are admitted to hospital 3 times more frequently. And of those admitted, they require admission to the intensive care unit 4 times more often and stay in hospital almost 3 times longer than children with bicycle-related injuries.

We heard from many people who feel that children are safe if they operate off-highway vehicles that are smaller in size with less power. Studies, however, do not show this. In fact, studies from the United States Consumer Product Safety Commission (CPSC) show that the risk of injury per driving hour for a rider less than 16 years of age who is operating an ATV under 90cc in size

- is reduced by *only* 18 percent compared to operating one with an engine size of 200cc (or greater)
- is five times higher than the risk to an older driver on an ATV under 90cc
- is almost double that of an older driver on a larger machine

Recent data indicates that 87 per cent of injuries to children occur when driving adult-sized ATVs (90cc or greater). However, again, this cannot be taken to mean that smaller machines are safer. It may merely reflect the fact that smaller machines are driven less frequently than larger ones (in Nova Scotia, less than 5 per cent of ATVs sold are under 101cc engine size).

Although the majority of the injury data and much of the recent media has focused on ATVs, childhood injuries from snowmobiles are also significant and must be taken into account. More children and youth drive ATVs than snowmobiles. Subsequently, the numbers of injuries seen from snowmobiling is lower. However, the Task Force does not take this to mean that snowmobiling is safe for children and youth. In fact, snowmobiling is the third most common cause of recreational injuries resulting in *major* trauma in Canada. Studies have documented serious injuries and deaths among children from snowmobiling. These motorized vehicles require strength, skill, and judgement to operate safely.

Children under the age of 14 do not consistently recognize, evaluate, and manage risk. They cannot reliably recognize hazardous riding conditions, read the terrain to the degree necessary to ride safely at all times, nor identify, predict, and execute complex decisions "on the fly." Because of this we feel a precautionary approach is necessary to address the risk of injuries among children.

We rejected the proposal made by some respondents to permit children under the age of 14 to operate off-highway vehicles under parental supervision on private property. We do not believe that this offers a safe enough environment, nor one in which appropriate supervision or other control measures could be guaranteed.

On the other hand, we recognize the importance of instituting a strong message and culture of safety training and graduated operation similar to the graduated licensing program for automobiles that has proven successful. Therefore, we recommend that 14- and 15-year-olds should be allowed to drive off-highway vehicles if they acquire a Youth Class Learner's Permit, both they and their parent or guardian receive training, and they are supervised at all times by the parent or guardian while driving the machine. This Youth Class Learner's Permit would not apply to off-highway vehicle classifications that can be registered for on-highway use, such as jeeps.

The motocross community in Nova Scotia has established a system of safeguards (see below) that sufficiently mitigates the risk for child participants to an acceptable level. We are therefore recommending that off-road motorized activities (both recreational and sport) for children under the age of 14 be permitted if such activities are conducted under the auspices of a credible sanctioning organization and if the following safeguards are in place:

- specially designed and maintained closed courses
- mandatory high-quality protective equipment and clothing
- mandatory progressive training
- comprehensive rules of order strictly enforced
- riders divided into different classes based on age, size, and ability
- mandatory parental supervision
- trained officials present
- trained medical personnel and an ambulance on site

To qualify as a credible sanctioning organization, the organization would need to have all of the following in place and go through some type of accreditation process, perhaps administered by the Registry:

- established standards and system of inspection for track design and conditions
- established standards and a system of inspection for machines to ensure they are safe and appropriate for the type of activity and skill level of the rider
- established classification system and system of inspection for riders according to their skill levels
- a process for amending and improving standards based on experience in the field
- ready access to trained medical personnel and equipment
- established standards to ensure that track layout and machine operation does not result in undesirable environmental degradation

- established system of training and certification for referees and/or other officials
- established comprehensive risk-management system

Penalty for underage driving
Allowing children to operate an off-highway vehicle in an unauthorized manner can result in serious injury or death. That is why we recommended severe penalties for those who disregard the law.

However, we did listen to those who felt the penalties were too extreme. In this final report we have recommended that registered owners be fined $250 dollars for a first offence. Penalties for subsequent offences, however, should increase in severity.

Recommendations

26 Allow youth 14 and 15 years of age to operate off-highway vehicles only if they acquire a youth class learner's licence (to be created), and only if all the following conditions are met: a) Successful completion of an accredited off-highway vehicle training course by both the youth and the parent or guardian. b) Mandatory direct supervision by (in the company and within sight of) the parent or guardian at all times while operating the off-highway vehicle.

27 Prohibit children under the age of 14 from operating off-highway vehicles, on public or private land, except when activities are conducted on closed courses under the auspices of an accredited organization (sanctioned by the Registry) for children participating in off-road motorized activities operating under the following conditions:

- specially designed and maintained closed courses
- mandatory high-quality protective equipment and clothing
- mandatory progressive training
- comprehensive rules of order strictly enforced
- riders divided into different classes based on age, size, and ability
- mandatory parental supervision
- trained officials present
- trained medical personnel and an ambulance on site

28 Fine the registered owner of the off-highway vehicle $250 when a person less than 14 years of age operates the off-highway vehicle, unless done so in the manner prescribed in recommendation 27.

Training

There is much to learn about how to safely and responsibly operate an off-highway vehicle. Having an accredited trainer provide this information in person should help reduce the incidence of injury and death.

Although the safety component of the proposed accredited training program should be the most significant element, this educational opportunity should also include modules on the relevant laws, the environment, and landowner rights.

What we heard

The interim report included recommendations on the need for mandatory training as a way to impart driving skills and knowledge.

Our interim report recommended the "grandfathering" of those drivers who could demonstrate they owned an off-highway vehicle that was properly registered for the two years immediately preceding the date when training would become mandatory for everybody. Since publication of the interim report, citizens and stakeholder organizations have told us quite strongly that no off-highway vehicle operator should be exempted from taking a training course. People wrote us to say that even those with driving experience lacked knowledge about safe operation, the environment, and regulations.

Others asked us to make recommendations on annual mechanical inspections, rules for the carrying of passengers, break lights, rear view mirrors, speedometers, and personal protective equipment/clothing.

Task Force analysis and conclusions

Mandatory training

The vast majority of respondents, including SANS, ATVANS, the Nova Scotia Trails Federation, and the Ecology Action Centre, agree that training should be mandatory for everyone. As a result of what we have heard, we have reversed our position on exempting certain drivers. As part of a proactive approach to reducing the number of injuries or deaths and encouraging responsible off-highway vehicle operation, every driver should receive training.

Training course content

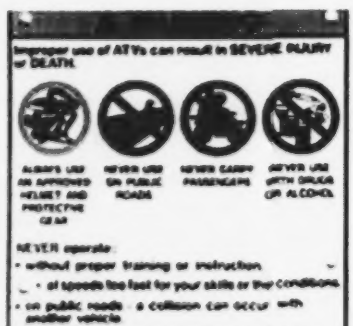
An appropriate and accredited training course should be developed based on the driver's handbook. This should incorporate the Canada Safety Council training course in its design. The handbook should include knowledge of the applicable laws and information about damage caused by off-highway vehicles operating off designated trails.

Phase in training

Since training capacity in Nova Scotia is still quite limited, we believe a phase-in schedule must be developed that places emphasis on younger drivers and those who are operating off-highway vehicles for the first time.

Other safety issues

ATVs come with a warning label that addresses safety issues such as passengers, driving under the influence of alcohol or drugs, wearing an approved helmet, and using protective gear. The same warnings appear in all owner's manuals. Helmet use is already mandatory in Nova Scotia. And driving while under the influence of alcohol or drugs is treated very severely under the criminal code of Canada.


Improper use of ATVs can result in SEVERE INJURY or DEATH.
NEVER operate
• without proper training or instruction
• on public roads - a collision can occur with another vehicle
• with a passenger - passengers affect balance and steering and increase risk of losing control
READ THE OWNER'S MANUAL
FOLLOW ALL INSTRUCTIONS AND WARNINGS

While our immediate safety priority calls on government to make safety training a mandatory requirement, we recognize that other safety issues require further attention. Because of this, government and stakeholders should continue the dialogue on safety so that in the future the following topics receive detailed policy attention. While we believe the following issues are important, we have not been able to give them our immediate consideration:

- annual mechanical inspections
- passengers
- other vehicle related features such as break lights, mirrors, and speedometers
- protective equipment and clothing

Recommendations

29 Require all off-highway vehicle operators to complete an accredited off-highway vehicle training course. Phase in training, based on available accredited training capacity, so as to place emphasis on younger drivers and those who are operating off-highway vehicles for the first time. Accept successful completion certificates from a Canada Safety Council course as proof of training until such time as the accredited off-highway vehicle training course is established.

30 Include the following in accredited training course content: a) the safe and responsible operation of the off-highway vehicle types; b) the general off-highway vehicle regulations; c) the laws protecting landowners (public and private) and the rules for access; d) the code of conduct on trails; e) a list of environmental regulations and descriptions of ecologically sensitive areas; f) illustrations of damaging off-highway vehicle impacts on land outside designated trails; and g) the compendium of possible infractions.

Protection

Special attention and protection should be extended to landowners, ecologically sensitive areas, and individuals affected by irresponsible off-highway vehicle use. All reasonable precautions should be taken to discourage trespass, prevent encroachment on protected Wilderness Areas, minimize damage to ecologically sensitive areas, and reduce financial loss to individuals.

In the sections that follow we propose:

- a system of written permission
- that off-highway vehicle drivers assume all risk and liability
- assurance that prescriptive rights cannot accumulate through the use of off-highway vehicles
- a prohibition on off-highway vehicles in protected Wilderness Areas
- measures to further protect ecologically sensitive areas
- mandatory third-party liability insurance for off-highway vehicle drivers

Landowners

Some off-highway vehicle users do not respect the rights of landowners to prohibit access to their property. Landowners are frustrated and enforcement personnel lack the legislative tools to deal effectively with trespassers. We propose a system of written permission for those who wish to use another person's land.

The fear of liability motivates some landowners to refuse access to their land. If this concern can be alleviated we believe landowners will make more land available to off-highway vehicle drivers. We recommend legislative changes providing that off-highway vehicle drivers assume all risk and liability when on someone else's property.

Some landowners believe that trespassers can acquire a long-term right of access to their property through trespass. Again this concern results in refused access and reduced opportunities for recreation. We recommend that prescriptive rights not result from riding off-highway vehicles.

What we heard

Our interim report said that landowners lacked the required legislative protection. We feel that providing landowners with increased protection will ultimately lead to more private land being made available for recreational off-highway vehicle use.

We heard from many in the off-highway vehicle community who said it is unreasonable to expect every operator of an off-highway vehicle to obtain written permission from landowners. They told us that although landowners may allow off-highway vehicles the use of their property, they are not about to put this in writing for fear of liability or the possibility that some unknown encumbrance might arise as a result.

Others saw some logic in what we proposed and did not wait for government's response. We've learned that the Digby County ATV Club along with the Digby East Fish and Game Association used the Barrett Lumber Company's land stewardship agreements as the starting point for talks with a major landowner in their area. We understand that a formal arrangement is pending which would give members of these clubs access to hundreds of kilometres of woods roads.

Most people we heard from did not take issue with accepting all risks and liabilities when using an off-highway vehicle. In fact many respondents on this topic felt this recommendation could potentially open up more land to off-highway vehicles.

Many people disagreed with our recommendation that would make it an offence to disturb the occupier of a premises by the unreasonable operation of an off-highway vehicle. They challenged the Task Force to define "unreasonable operation" and questioned the enforceability of this recommendation.

Task Force analysis and conclusions

Legislation to further protect private landowners is needed. Specifically, landowners should be able to prevent trespass, limit their exposure to liability, and ensure that those who cross private land without permission cannot profit by acquiring a prescriptive right to continue that activity.

Written permission
Mandatory written permission will

- give the police agencies an invaluable tool for dealing with problem off-highway vehicle drivers in problem areas
- make it beneficial for people to join off-highway vehicle clubs that can seek landowner permission from multiple properties on behalf of many members
- bring landowners and off-highway vehicle drivers together to work on mutually beneficial solutions to outstanding issues
- be more readily available when off-highway vehicle drivers carry third-party liability insurance and willingly accept all risk and liabilities

For these reasons we believe that, in the long run, written permission will benefit landowners, policing agencies, off-highway vehicle clubs, and other off-highway vehicle users.

Willing assumption of risk
Off-highway vehicle operators should willingly assume all risks and liabilities (whether permission to access a property has been granted or not) except those that arise through the deliberate intent of the owner/occupier of a property. We think stating this in legislation will help to alleviate the concerns of landowners and thus will make more land available to off-highway vehicle enthusiasts.

Prescriptive rights
We understand that individual public rights can be created in favour of a person who uses a road or path crossing another person's property for twenty years – without seeking permission and without explicit action by the landowner to convey to the person that they are not welcome. Landowners must have a way to prevent the accumulation of prescriptive rights against the title of their property by off-highway vehicle enthusiasts.

Unreasonable operation
We agree with those who said that defining "unreasonable operation" of an off-highway vehicle would be too subjective and impossible to enforce. For this reason we have rescinded this recommendation in our final report.

Protection of Property Act

After further deliberation the Task Force has concluded that, with a sys'em of mandatory written permission in force, our recommendation dealing with clause 15 of the Protection of Property Act was redundant. That clause excluded some trespassers from prosecution. Because of this we have dropped this recommendation from our final report.

Recommendations

31 Amend legislation to require that off-highway vehicle drivers (individually or through a recognized club or association) acquire written permission from landowners.

32 Amend legislation to ensure that off-highway vehicle drivers and passengers (whether permission to access a property is granted or not) willingly assume all risks and liabilities, except those that arise through the deliberate intent of the owner/occupier of a property.

33 Amend legislation to ensure that operators of off-highway vehicles do not acquire prescriptive rights of access against a landowner solely through the use of an off-highway vehicle, whether or not permission for use is granted.

Protected Wilderness Areas

Off-highway vehicle access to Nova Scotia's protected Wilderness Areas (with a few limited exceptions) is already prohibited by existing legislation. Unless you have been given special rights to travel in a protected Wilderness Area – to aid in the Moose hunt in northern Cape Breton, to access a camp lease, to access a privately owned in-holding, or, in the case of the Snowmobilers Association of Nova Scotia (SANS), to continue to use a couple of important connecting trails – then you are breaking the law.

After witnessing the unauthorized off-highway vehicle trail network in some of our protected Wilderness Areas first hand, the Task Force concluded that illegal use of these important spaces is common and enforcement is rare. Unless this changes the protected Wilderness Areas, with regard to off-highway vehicles, are "protected" in name only.

Having heard from many citizens and stakeholders on this subject and after much deliberation we have concluded that Nova Scotia should take additional steps to make protected Wilderness Areas off-limits to off-highway vehicle use.

What we heard

Our interim report recommended that off-highway vehicles be completely prohibited from accessing protected Wilderness Areas. We also said that any off-highway vehicle trails through protected Wilderness Areas currently permitted under discretion of the Minister should be withdrawn within a three-year period.

These recommendations resulted in significant response from all sides of the issue.

Environmental organizations and many individual Nova Scotians supported the proposed recommendations. Representatives from these organizations also asked the Task Force to prohibit any new trail development in "candidate" protected Wilderness Areas. Candidate areas are those areas of Nova Scotia with attributes that make them suitable for selection as protected Wilderness Areas in the future.

The Canadian Parks and Wilderness Society, and many who support this organization's position, feel the interim report's recommendations represent only the "bare minimum necessary to achieve protection of private landowners' rights, public safety, compliance with laws, and conservation of natural areas."

We received a petition from citizens in Guysborough County asking government not to adopt our recommendations. Continued access to the protected Wilderness Areas in their region is a central concern. The All Terrain Vehicle Association (ATVANS), a number of all-terrain vehicle clubs, and many other off-highway vehicle operators also want to continue using trails in protected Wilderness Areas. However, it must be pointed out that general motorized access to protected Wilderness Areas is currently illegal.

SANS wants to maintain its (authorized) access to managed trails in two protected Wilderness Areas. It says that alternate routes outside of the protected Wilderness Areas are not easy to find and very costly to build. It also does not believe that the activities of its members create any lasting impact on the environment, because they travel over snow and ice.

Task Force analysis and conclusions

Nova Scotia has chosen to protect approximately 5 percent of the province's land area in the form of 31 protected Wilderness Areas. The province has a goal to increase that amount. Currently two candidate protected Wilderness Areas – Gully Lake and Eigg Mountain – are in the process leading to formal designation.

The purpose of the Wilderness Areas Protection Act is to provide for the establishment, management, protection, and use of wilderness areas, in perpetuity, for present and future generations, and to achieve the following primary and secondary objectives while providing opportunities for public access for sport fishing and traditional patterns of hunting and trapping.

Primary objectives:

- maintain and restore the integrity of natural processes and biodiversity
- protect representative examples of natural landscapes and ecosystems
- protect outstanding, unique, rare and vulnerable natural features and phenomena

Secondary objectives:

- provide reference points for determining the effects of human activity on the natural environment
- protect and provide opportunities for scientific research, environmental education and wilderness recreation
- promote public consultation and community stewardship in the establishment and management of wilderness areas

We witnessed a great deal of physical damage in protected Wilderness Areas caused by wheeled vehicles. We understand that snowmobiles cause relatively little on-the-ground damage because they operate on frozen terrain.

While the Wilderness Areas Protection Act generally prohibits the operation of any vehicle within the protected Wilderness Areas, ministerial discretion currently allows for very limited snowmobile and all-terrain vehicle use.

Given the level of damage being inflicted on our protected Wilderness Areas, we conclude that (despite all the good intentions) this is another example of a situation that is difficult to enforce. And the Department of Natural Resources can only provide about one and *a half staff days per year in each of the protected* Wilderness Areas.

We have heard arguments for limited, continued, or expanded access to these areas. These arguments include the need to connect to an established trail, to carry on hunting or trapping, to get to a camp lease, or to enjoy nature as a handicapped or senior person. We have concluded that the government of Nova Scotia must protect a small portion of its land base in the manner envisioned by the spirit of the Wilderness Areas Protection Act.

We have concluded that more than sufficient opportunities can be established on public and private land outside of the protected Wilderness Area network to accommodate the recreational needs of off-highway vehicle enthusiasts. We are also of the opinion that designers of any network of designated trails and areas for off-highway vehicles should take every precaution so as not to infringe upon areas identified as potential protected Wilderness Areas.

Recommendations

34 Prohibit off-highway vehicle use by the public in existing protected Wilderness Areas. Allow three years for designated Snowmobilers Association of Nova Scotia (SANS) trails that are currently authorized through ministerial discretion to be phased out and replaced with alternate routes outside the affected protected Wilderness Area. Despite this target date of three years, under no circumstances deny access of SANS members to existing approved trails until alternate routes are available, as long as SANS continues to work in good faith on alternate routes.

Other Ecologically Sensitive Areas

Many types of ecologically sensitive areas and habitat for endangered species have been subject to abuse by off-highway vehicle use in recent years.

Nova Scotia's designated off-highway vehicle trail and area network should avoid ecologically sensitive areas, and off-highway vehicle legislation should also generally prohibit off-highway vehicles from accessing these places.

Components of the accredited training course containing educational information on ecologically sensitive areas will help increase awareness.

What we heard

Our interim report advised government to make it clear that off-highway vehicles are prohibited from sensitive ecosystems unless otherwise specifically provided for within the designated trail network. Sensitive ecosystems include barrens, beaches, bogs, and brooks. And we also recommended that in the marine environment this prohibition should be extended to include below and above the ordinary mean high water mark.

These recommendations received a generally positive response from most respondents. Off-highway vehicle stakeholder organizations agreed that this was a reasonable precautionary measure as long as drivers could bridge or otherwise stabilize these areas before crossing.

Many other respondents questioned the comprehensiveness of our list of ecologically sensitive ecosystems. While the 4 Bs – Barrens, Beaches, Bogs and Brooks – works well as a catch phrase, they felt it did not do justice as a way to professionally identify the full spectrum of sensitive ecosystems.

We heard from municipal water authorities that questioned why the Task Force did not deal specifically with the question of recreational off-highway vehicle access in municipal water supply areas. They expressed concern for their ability, as custodians of Nova Scotia's drinking water supply, to manage the risk associated with this activity.

We received a petition signed by residents of Halifax County who want the Halifax Regional Water Commission to open the Pockwock waterline and surrounding trail systems to the users of recreational off-highway vehicles.

Task Force analysis and conclusions

Endangered species

Off-highway vehicles have caused significant ecological damage to many types of sensitive habitats. The Piping Plover, the Blanding's Turtle, the Mainland Moose, and several plants share the provincial endangered list that now includes 20 species. In the years ahead, continued indiscriminate and expanding use of off-highway vehicles will further endanger species at risk.

Millions of dollars are spent each year in efforts by conservation organizations, governments, landowners, and dedicated volunteers to protect Nova Scotia's natural environment and to save endangered species from being lost. This collective investment must be protected.

Types of ecologically sensitive ecosystems

We acknowledge that our list of sensitive areas may have been a novice attempt to describe the plethora of ecosystems deserving of protection from the paths of off-highway vehicles. To address this we do not attempt to make the list longer, but rather call upon the Department of Environment and Labour to bring further definition to the term "ecologically sensitive area."

An example of a situation where such a definition will be important is in the marine and freshwater zones. It is our conclusion that the recreational use of off-highway vehicles should be prohibited on marine and fresh water beaches in a way that includes the entire ecologically sensitive areas associated with such zones.

Exceptions

The Task Force acknowledges that in some cases Nova Scotia's designated network of off-highway vehicle trails and areas may infringe upon some ecologically sensitive areas. This may be unavoidable in a limited number of circumstances.

Supply areas for drinking water

Legislation specific to municipal water supply areas says that off-highway vehicles can be kept out of watercourses. However, this legislation cannot be used to generally prohibit the use of off-highway vehicles in Protected Water Areas unless there is a particular threat to water quality.

The existing laws could be used to restrict operation of off-highway vehicles near sensitive watercourses or elsewhere within Protected Water Areas if necessary, not only right in the watercourse or wetland. Restrictive zones could be established to protect terrain where erosion and sedimentation may impair drinking water quality.

The Task Force agrees with those who say our supply areas for potable water should receive an extremely high level of protection. We have concluded that Nova Scotia's designated network of off-highway vehicle trails and areas must not be located in ways that could possibly threaten drinking water quality. Municipal Water Authorities do not have the resources to adequately police and enforce random access by off-highway vehicles.

In accordance with the above statement, we've added a recommendation to this section of the final report respecting the need to give water authorities a greater ability to restrict and control off-highway vehicle use.

Recommendations

35 Amend legislation to prohibit off-highway vehicles from the following sensitive ecosystems, unless otherwise specifically allowed within the designated trail network: a) barrens – coastal and plateau b) beaches (marine and fresh water) and dunes c) bogs and marshes d) brooks, streams and rivers e) other sensitive ecosystems as defined by the Department of Environment and Labour.

36 Amend legislation to prohibit all off-highway vehicle use by the public within official and posted supply areas for potable water (as defined by the municipality or provincially via designation as a Protected Water Area) unless otherwise prescribed by the responsible water authorities.

Third-party Liability Insurance

Commercial third-party liability insurance can be purchased for off-highway vehicles, and we believe this should be an integral part of our proposal to "adopt a motor vehicle model" for the administration of off-highway vehicles.

Landowners, trail managers, other trail users, and anyone else that could potentially be subject to a financial loss as a result of an unfortunate event involving an off-highway vehicle have the right to be protected in this way. Off-highway vehicle owners should be accountable for any damage they cause. Insurance offers a practical way for this to occur.

What we heard

We learned from the Insurance Bureau of Canada that the average cost of a third-party liability insurance policy for off-highway vehicles in Nova Scotia is now $109 a year. We were also told that although this insurance is available, making it mandatory would not in and by itself solve specific problems or change behaviours within the community of off-highway vehicle operators.

Our interim report recommended that third-party liability insurance should become a mandatory requirement for off-highway vehicle drivers by the year 2007. Although we wanted to ensure that innocent third parties were protected from harm to themselves or damage to their property inflicted by the driver of an off-highway vehicle, we felt the off-highway vehicle community needed time to consider delivery options and their costs.

Some respondents did not accept this as a valid reason for delaying. They argue that under no circumstances should innocent third parties be exposed to financial risk so that those who cause the harm are not inconvenienced.

Trail builders expect that, as more and more individuals begin to carry third-party liability insurance, their trail manager's insurance might be reduced in cost.

Some respondents suggested that the price of insurance might skyrocket once it was made mandatory. Still others asked what possible good could come from mandatory third-party liability insurance if the off-highway vehicle never leaves the owner's property.

Others within the off-highway vehicle community suggested that government and off-highway vehicle organizations might collaborate to establish self-insurance or a self-directed insurance system that offers the industry additional control.

Still other respondents felt that this one recommendation would make using off-highway vehicles too costly. They say the relatively low cost to operate an off-highway vehicle in Nova Scotia has been one of the forces behind their popularity.

Task Force analysis and conclusions

Innocent third parties

Innocent third parties must be protected, and those who injure another person or cause damage to the property of a person should be responsible for their actions.

The rights of those whose health might be permanently affected by an off-highway vehicle driver must come first. Furthermore, it would be irresponsible for government to help establish a designated trail system, encourage multi-use, and allow 14 year olds to ride on these trails without first ensuring that others are protected.

Alternative delivery options

A provision for mandatory third-party liability insurance should be implemented immediately so that people are protected. Commercial off-highway vehicle insurance is available today and should be used. This does not prevent the off-highway vehicle community from investigating or implementing alternative delivery methods at a later date.

Exemption for operation on the OHV owner's property

We agree with those who say that government should not force people to carry third-party liability insurance if their off-highway vehicle will not be driven off their own property. Certainly this is the case for a number of individuals and companies who use the machines for industrial purposes or simply as valuable tools around the yard.

Recommendations

37 Introduce the requirement for off-highway vehicle drivers to carry third-party liability insurance, except for those who use their vehicle exclusively on their own property.

Vehicle Standards

Some issues originate with manufacturers and will take the co-operation of many jurisdictions to improve. Our government will need to work with others to review and, if appropriate, establish national standards for certain characteristics of off-highway vehicles, such as noise level, tire treads, and other vehicle design issues.

Noise

What we heard

Our interim report said it should be an offence to intentionally (or through neglect) drive unnecessarily noisy machines. Because of this, we recommended that it be made an offence to operate an off-highway vehicle with a defective or modified muffler.

The Task Force heard a great deal about how the noise created by off-highway vehicles offends many people.

A number of respondents said we should be careful in how we word this recommendation since many after-market mufflers may actually result in a lower sound level than factory installed versions.

Other people making a submission to the Task Force agreed that off-highway vehicles with defective or modified mufflers are extremely noisy and the cause of many complaints to enforcement agencies.

And while the noise level may not be excessive when operated responsibly, many people consider the constant drone of the engines to be generally offensive no matter how they are driven.

Task Force analysis and conclusions

If manufacturers made off-highway vehicles even quieter, this would go a long way to improving their level of acceptance in society. While big sound is part of the appeal for some operators, quieter machines would be less intrusive.

The Task Force wanted to recommend measures to curb offensive noise in a way that is within Nova Scotia's capacity to control and also within our ability to enforce.

We now say that legislation should be amended to make it an offence to operate an off-highway vehicle with a sound level higher than the standards established for manufacturers. This includes situations where mufflers are defective or where they have been modified.

Sound meters will need to be used and a standard test adopted. We understand that the required technology for such on-site testing is readily available.

Recommendations

38 Amend legislation so that it is an offence to operate an off-highway vehicle with a defective or modified exhaust system that does not meet established sound standards.

Tires

What we heard

Our interim report considered the potential for these heavy, powerful machines to damage the terrain upon which they travel. To minimise the risk of damage, we recommended that government prohibit aggressive tread tires from Nova Scotia's network of trails and park areas, unless the trail or park area is intended and designed to accommodate this use.

In response, people told us how difficult it would be to establish a tread depth standard and enforce this across the province.

Many respondents said that "stock" tires actually result in more damage since they spin a great deal more travelling over soft ground.

Others said deep tread tires are needed to negotiate Nova Scotia's trails given their current state of development.

A number of other people pointed out that off-highway vehicles used for industrial purposes require aggressive tread tires to do their work. They say these owners can hardly be expected to change tires every time they want to use a trail.

Many respondents agreed with the recommendation as written.

Task Force analysis and conclusions

Excessive tread depth in combination with heavy, powerful vehicles can do damage wherever they go. This not only applies to soft terrain, but also to properly gravelled hard surfaces prepared at great expense by the trail manager or landowner.

After further deliberation, we believe that the expense and effort required to implement this recommendation would be best invested in other areas. Furthermore, we agree with those who say we don't really have enough knowledge in this area to issue such a conclusive statement at this time. Therefore, we have dropped this recommendation from our final report.

National Standards

What we heard

In some cases, the complete solution to a particular issue was beyond that which could be resolved by Nova Scotia alone. In a number of these cases, the design characteristics of the off-highway vehicles themselves largely contribute to the problem. We recommended that the Province of Nova Scotia approach the other provinces and the federal government with respect to standards on

- mufflers and noise
- advertising and the manufacturers' responsibilities
- engine design for fuel efficiency and pollution
- power, speed, weight, and size
- tire-tread depth
- positioning of licence plates or stickers and accommodation for larger sizes
- electronic tracking
- common locations for vehicle identification numbers

Since the publication of the interim report we have heard from many who agree that the machines are becoming too powerful, too fast, too heavy, and too big. They wonder where it will all end. They say that manufacturers in the absence of any government standards will build whatever will sell regardless of how safe they are or how they affect the environment.

Some respondents said our recommendations on licence plates wouldn't work because manufacturers have not designed a place for them.

Others deplored how manufacturers continue to produce and disseminate irresponsible advertising that disrespects the environment and private property rights.

Many people thought this recommendation was long overdue but did not hold out much hope that anything would happen. They said we had better focus our effort on what Nova Scotia can control by itself.

A few people pointed to our inclusion of "electronic tracking" as evidence that the Task Force report was acting in an extremist manner towards off-highway vehicle enthusiasts.

Task Force analysis and conclusions

Canada should establish more stringent standards for off-highway vehicles, particularly those used for recreational purposes.

Manufacturers have invested little attention in making the job of enforcement officials easier with respect to vehicle identification. Some of their advertising encourages off-highway vehicle users to abuse the environment and go everywhere and anywhere they wish. They are making huge, powerful, noisy, fast machines far in excess of what is required for responsible recreational activity.

We believe the provinces of Canada should engage the federal government in a dialogue about national standards for off-highway vehicles.

Recommendations

39 Engage other provinces and the federal government in discussions to establish national off-highway vehicle standards on the following: a) better vehicle identification (accommodation for licence plates and or stickers); b) responsible advertising; c) power, speed, weight, size, and tire design; d) exhaust systems and noise; e) engine design, fuel efficiency, and pollution; f) common location for vehicle identification numbers; and g) additional safety and design features.

Conclusion

Task Force members – not unlike the competing interests we found evident in communities – represent a diverse range of backgrounds and personal views. Yet we have been able to reach a strong consensus in our final report as represented by our 39 recommendations on enforcement, infrastructure, safety, protection, and vehicle standards.

We encourage stakeholders and citizens to support and government to enact this plan in its entirety since many of the recommendations rely on each other to achieve maximum effectiveness.

The Off-highway Vehicle Task Force has finished its work. It is important that the dialogue started more than a year ago not lose momentum. All political parties, levels of government, stakeholders, and interested citizens must find ways to translate our findings into progressive legislation, policies, and initiatives.

We have done our best in the interest of all Nova Scotians. Thank you for the opportunity.

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Appendix 1
Terms of Reference

Off Highway Vehicle Use in Nova Scotia
Voluntary Planning Initiative

Mandate

Through public consultation and research, Voluntary Planning will discuss and make recommendations to government on broad provincial issues of concern relating to off-highway vehicle use.

Objectives

1. Review and consider the information outlined in the paper, Strategies to Promote the Responsible Use of Off-highway Vehicles in Nova Scotia (by the Off-highway Vehicle Working Group), as a starting point for initiating broad public consultation.

2. Develop and implement a provincial consultation strategy to solicit public input on off-highway vehicle use as it relates to key issues of public and government concern, including:

    - public health & safety
    - liability
    - environmental impacts
    - property rights
    - public & private land use
    - user conflict, and
    - opportunities for responsible OHV use

3. Examine and consider "best practice" approaches to OHV management in Nova Scotia and other jurisdictions.

4. Make recommendations to government reflecting the mandate and key issues of concern, considering:

    - legislative amendments, especially considering the Off-highway Vehicles Act
    - changes to provincial policy and procedures
    - the role of public stewardship & local community participation
    - trail development & management
    - liability, insurance, & licensing
    - innovative approaches supporting education and compliance

5. Provide advice on implementation, considering:

    - opportunities for program integration and partnership
    - funding & proposed assignment of responsibility relating to implementing any specific recommendations

Deliverables & Timing

The following documents are expected for submission to Treasury & Policy Board.

- Draft Public Consultation Strategy (for government comment) - June 20, 2003
- Draft Recommendations Report (for government comment) - December 15, 2003
- Final Recommendations Report - January 31, 2004

Support

In support of the work of Voluntary Planning, an Interdepartmental Resource Team, will be convened, with representatives from:

- Nova Scotia Department of Agriculture and Fisheries
- Nova Scotia Department of Justice
- Nova Scotia Department of Environment and Labour
- Nova Scotia Department of Natural Resources
- Nova Scotia Department of Tourism and Culture
- Nova Scotia Department of Transportation and Public Works
- Service Nova Scotia and Municipal Relations
- Nova Scotia Sport and Recreation Commission, and
- Nova Scotia Treasury & Policy Board

The Interdepartmental Resource Team will:

- identify and provide a summary of existing provincial government legislation and programs relating to OHV use
- conduct research, and review & report on best practice approaches
- provide background information and advice as requested by Voluntary Planning

Further, the Team will work to support a consistent provincial approach to management of OHV issues, during the Voluntary Planning initiative.

Appendix 2
What We Changed from the Interim Report

Our interim report revealed what the Task Force had discovered and the recommendations we felt were necessary to address the outstanding issues. In doing so this fostered a rich dialogue based on concrete ideas.

We reviewed the response and made changes intended to reflect the important points raised by Nova Scotians. These changes seek to strengthen the overall consensus, address gaps where they exist, and correct misinterpretations.

The interim report attempted to provide timelines for the implementation of many recommendations. In this final report readers will notice less emphasis on specific timelines. We want our audience of government, stakeholders, and citizens to focus on the policies themselves.

A number of the recommendations require a change to legislation. In the interim report we attempted to specify what legislation or part of a particular piece of legislation should be amended. In this final report we say that legislation should be created or amended but refrain from identifying specific pieces or sections of existing legislation. Again, we feel it is more useful for us to focus on what has to be changed and not on exactly how to make the changes.

Some respondents to the interim report described the penalties as too harsh. The final report retains the option to use strong financial penalties, demerit points, impoundment, seizure, and auction of vehicles as options for the more serious or repeat offences, but generally the Task Force has attempted to make the penalties comparable to those used by enforcement agencies for infractions by people driving automobiles.

The final report makes the following significant deletions, additions, and changes based on an analysis of what we heard. See the full text of the interim report recommendations in Appendix 3.

Deletions

Recommendation to establish a Vehicle Identification Number (VIN) system through the Registry.

Recommendation calling for a one-time operating grant of $500,000 to establish the Trust Fund and its Executive Committee.

Recommendation relating to Clause 15 of the Protection of Property Act.

Recommendation on tire-tread depth.

Additions

The Office of Health Promotion, Sport and Recreation Division, is called upon to oversee the development of provincial trail construction standards and provincial rules of operation for off-highway vehicles on single-use and multi-use trails.

Recommendation on Trust Fund calls on the Office of Health Promotion, Sport and Recreation Division, to act as secretariat to the Trust Fund and the Trust Fund Executive.

Prohibit all off-highway vehicle use by the public within official and posted water supply areas unless otherwise prescribed by the responsible water authorities.

Changes

Recommendation on the registration amnesty program now calls for this to be implemented, not just considered.

Recommendation on licence plates now includes the option for a sticker version, allows for variation on placement, and makes limited exceptions.

Recommendation on the Integrated Enforcement Task Force makes it clear that funding will not come from the Trust Fund.

Recommendation on the Integrated Enforcement Task Force calls upon the Department of Natural Resources to be the lead agency.

Recommendation on Trust Fund now calls for SANS to receive a block grant of $30 per registered snowmobile.

Recommendation on Trust Fund now calls for a sub-committee to make decisions on infrastructure-related spending.

Recommendation on Trust Fund now calls on the Executive Committee to develop and publish the blueprint of a comprehensive off-highway vehicle network of trails and areas.

Recommendation on limiting off-highway vehicles to designated trails now makes exceptions as authorized by the Department of Natural Resources, on a limited basis, to allow for certain situations that cannot be accommodated by a designated trail and area network alone.

Recommendation on abandoned railway corridors now says that municipalities should ensure that provincial standards for rules of operation are enforced and that municipalities, if they deem it necessary, can pass additional bylaws.

Recommendation on rallies now calls for all rallies to require a mandatory permit, not only those with over 50 vehicles participating.

Recommendation on age makes an exception for closed-course activities for children under the age of 14.

Recommendation on training now calls for all drivers to receive training on a phased-in basis.

Recommendation on mandatory insurance now calls for immediate implementation and makes an exemption for those who drive exclusively on their own property.

Recommendation on protected Wilderness Areas ensures that SANS will not be denied access to currently sanctioned trails until alternate routes have been established.

Appendix 3
List of Recommendations from Interim Report of the Voluntary Planning Off-highway Vehicle Task Force February 2004

Adopting a Motor Vehicle Model

Vehicle Registration

1. Establish a mandatory registration program for all off-highway vehicles owned in Nova Scotia (no exceptions), for the 2005 registration year. The registration fee should be set at $50 per vehicle per year, with registration issued only to persons 16 years of age and over. Of the $50 registration fee, $40 will be held in trust while $10 will be retained by the provincial government to cover the administration costs of the registry.

2. Administer the registration system at the point of sale for new or used vehicles purchased at an authorized dealer and, within 30 days, at the Registry of Motor Vehicles (Registry) for private transactions.

3. Establish a Vehicle Identification Number (VIN) system for OHVs through the Registry when the new registration system is introduced, to allow for the identification of stolen vehicles.

4. Enlarge the new 2005 licence plates, change the OHV plate colour, and require each vehicle to display one plate at the front and one at the rear.

5. Seize any OHV operated without proper registration in Nova Scotia starting in 2005. Fine the operator of the vehicle $500, impound the OHV until it is registered by the owner, and sell at public auction vehicles not registered within 30 days of seizure.

6. Consider instituting an amnesty program for the owners of currently unregistered machines who cannot produce satisfactory documentation, as an incentive for the timely registration of all OHVs. Under the amnesty, a single HST payment would be collected from the current owner only based on current value of the vehicle.

Operator Licensing

7. Publish, by 2004, an Off-highway Vehicle Operator Handbook that covers the following: a) the safe and responsible operation of the OHV types; b) the general OHV regulations; c) the laws protecting private landowners and the rules for access to public lands; d) the code of conduct on trails; e) a list of environmental regulations; and f) the compendium of possible infractions and related fines.

8. Develop, by 2005, a written test based on the operator handbook and establish, in partnership with one or more accredited bodies, a practical skills testing program, with a view to introducing a mandatory OHV operator licensing program by the 2006 vehicle registration year.

9. Require, by 2006, that OHV operators must be persons 16 years of age or over with an automobile licence validated for OHV use. Make provision for an OHV licence for those wanting to operate an OHV but who don't have an automobile licence.

Should children operate OHVs?

10. Prohibit children under the age of 14 from operating OHVs.

11. Allow youth 14 and 15 years of age to operate OHVs only if they acquire, and carry with them, a Youth Class Learner's Licence (to be created), and ONLY if ALL the following conditions are met:
    - An appropriate OHV safety course is taken and successfully completed by both the youth and his or her parent or guardian
    - Mandatory direct supervision by (in the company and within sight of) the parent or guardian at all times while operating the OHV.

12. Fine the registered owner of the OHV $500 and apply 6 demerit points against the registered owner's driver's licence when a person less than 14 years of age operates an off-highway vehicle. For second offences, seize the vehicle and sell it at public auction.

Safety and Training

13. Starting in 2005, require OHV operators aged 14 and 15 years and all first-time operators to successfully complete the appropriate and accredited OHV training course.

14. Starting in 2007, exempt OHV operators from this mandatory accredited training course if they can demonstrate that they were the owner of a registered OHV in 2005 and 2006. This exemption does not apply to parents or guardians of a youth operator.

15. Starting in 2008, require all OHV operators applying for a first time Operator's Licence to successfully complete the appropriate and accredited OHV training course.

16. Include the following in the appropriate and accredited training course content: a) the safe and responsible operation of the OHV types b) the general OHV regulations c) the laws protecting private landowners and the rules for access to public lands d) the code of conduct on trails e) a list of environmental regulations f) the compendium of possible infractions and related fines.

Third-party liability insurance

17. Introduce the requirement for mandatory third-party liability insurance by 2007. In the interim period, conduct a thorough review of the various options and their costs.

Creating an OHV Infrastructure Trust Fund

18. Establish an OHV Infrastructure Trust Fund mandated to finance projects related to OHV trail system development, core funding of OHV user associations, operator health and safety, operator training, enforcement (self-policing), and environmental education and demonstration projects.

19. Provide a one-time operating grant of $500,000 in 2004 to ensure the trust fund is established and becomes functional on the earliest possible time line.

20. Appoint an independent chairperson from the private sector to manage the trust fund and have decision-making power over the fund. Appoint an executive committee, of not more than 10 individuals, to support the chairperson. The committee should contain persons from stakeholder organizations and ex-officio (and non-voting) officials from the lead government departments. Stakeholder organizations will include umbrella associations representing OHV enthusiasts, the medical/safety profession, the environmental sector, landowners, and the enforcement community.

Recommendations
Interim Report

21. Direct the executive committee for the trust fund to work with the Nova Scotia Trails Federation to develop and publish the blueprint of a comprehensive trail network for Nova Scotia, after it has ensured that extensive and inclusive consultations and negotiations have been conducted in all regions of the province.

22. Mandate the OHV Infrastructure Trust Fund to issue an annual report.

23. Further mandate the Trust Fund Executive Committee to oversee the implementation of the government's work program stemming from this report, to advise on policy as required based on experience, to facilitate conflict resolution, and to finalize the development of a comprehensive OHV strategy for the province that fully reflects developments in the field.

Land Use

Designated Trails and Park Areas

24. Develop a network of designated trails and park areas, on public and private lands with permission, for the recreational use of off-highway vehicles. Limit off-highway vehicle activity on public land to this network.

25. Officially designate the Nova Scotia Sport and Recreation Commission as lead agency charged with developing the designated network of trails and park areas.

26. Include, on public land, culverted gravel woods roads and culverted gravel K-Class roads as potential components of a designated network of trails and park areas with conditions (such as not used during spring thaw, not used during periods of forest fire hazard).

27. Include abandoned railway lines as a potential component of a designated network of trails and park areas for off-highway vehicles under the following conditions:
    a) In general, permit off-highway vehicle access in rural areas, but consider proximity to residences.
    b) In residential areas defer the decision to allow off-highway vehicle access to the municipal government.
    c) Charge municipal governments with the responsibility of establishing over-riding rules of order and enforcing these bylaws on all abandoned railway sections in residential areas.
    d) Require the appropriate municipal governments to immediately review the right of access for OHVs to sections of abandoned railway line exhibiting questionable ability to maintain order. Review particularly those sections of abandoned railway line West of Halifax through to Martins River, Lunenburg County.
    e) Where access for off-highway vehicles on existing abandoned railway lines cannot be accommodated, make every effort to develop an alternative trail around the prohibited area.

28. Include highway rights-of-way ditches as a potential component of a network of trails and park areas. In future all ditches incorporated in the designated network of trails will be brought up to appropriate safety and environmental standards.

29. Reinforce the prohibition on all public roads for off-highway vehicles except for the following when incorporated as part of a designated trail or park area on terms and conditions acceptable to the Department of Transportation and Public Works: a) to cross a public road at planned and well signed locations b) to travel on the shoulder for short distances with appropriate signage.

Trail Management

30. Support OHV umbrella organizations by taking the necessary legislative steps that empower them to a) implement a mandatory trail pass system b) prevent unauthorized off-highway vehicle access to their trail network c) make third-party liability insurance mandatory for users of their trail network.

Landowner Protection

31. Amend the Off-highway Vehicles Act to say that operators must acquire written permission from landowners.

32. Amend the Off-highway Vehicles Act to say that off-highway vehicle operators and passengers (whether permission to access a property is granted or not) willingly assume all risks and liabilities, except those that arise through the deliberate intent of the occupier of a property.

33. Amend the Off-highway Vehicles Act to say that operators of off-highway vehicles do not acquire prescriptive rights of access against any landowner solely through the use of an OHV.

34. Amend the Off-highway Vehicles Act to say that anyone who disturbs an occupier of a premises by the unreasonable operation of an off-highway vehicle for recreational purposes on or in the vicinity of the premises is guilty of an offence.

35. Amend Clause 15 of the Protection of Property Act to make it clear that this provision does not affect the requirement that any person operating an OHV must obtain the written permission of the landowner under the OHV Act.

Wilderness Protected Areas

36. Establish a policy that completely prohibits recreational off-highway vehicle use in our Wilderness Protected Areas.

37. Phase out, within 3 years, OHV trails now crossing Wilderness Protected Areas and all other OHV access granted under Ministerial Discretion by establishing alternate trails.

Other Ecologically Sensitive Areas

38. Amend the Off-highway Vehicles Act to say that all off-highway vehicles are prohibited from the following sensitive ecosystems, unless otherwise specifically provided for within the designated trail network:
    a. barrens - coastal and plateau
    b. beaches (marine and fresh water) and dunes
    c. bogs and marshes
    d. brooks, streams, and rivers

39. Amend the Off-highway Vehicles Act to make it clear that in marine environments the prohibition is extended to include below and above the ordinary mean high water mark.

Rallies

40. Establish a mandatory permit requirement for rallies involving more than 50 off-highway vehicles. The permit system should be managed by umbrella organizations such as SANS or ATVANS. The approval process will ensure that all necessary permissions have been received from affected landowners, that the event organizers have taken all necessary precautions to protect the environment, and that local enforcement authorities have been notified.

Recommendations from Interim Report

Off-highway Vehicle Standards

Noise

41. Make it an offence under an amended Off-highway Vehicles Act to operate an off-highway vehicle with a defective or modified muffler.

Tires

42. Amend the Off-highway Vehicles Act to prohibit aggressive-tread tires on Nova Scotia's designated network of trails and park areas unless the trail or park area is intended (and designed) to accommodate this use.

National Standards

43. Engage other provinces and the federal government to establish a federal provincial process to develop national off-highway vehicle standards on the following:
    a. mufflers and noise
    b. advertising and the manufacturers' responsibilities
    c. engine design for fuel efficiency and pollution
    d. power, speed, weight and size
    e. tire tread depth
    f. positioning of licence plates and accommodation for larger plates
    g. electronic tracking
    h. common locations for vehicle identification numbers

The Enforcement Challenge

44. Establish a permanent Integrated Enforcement Task Force of at least 12 people (recruited from within the Nova Scotia RCMP detachments, the Department of Natural Resources, and local police forces) exclusively dedicated to the enforcement of OHV laws and regulations and provide the unit with appropriate funding.

45. Mandate the Integrated Enforcement Task Force to a) conduct enforcement blitzes at problem spots across the province, engaging regional and local enforcement personnel (as well as the self-policing community); b) systematically broadcast in print and electronic media the results of enforcement operations (arrests, fines, seizures, etc.); and c) conduct educational outreach and community relations programs within the OHV community in all parts of the province, to promote safe and responsible recreational use of OHVs.

46. Amend legislation to a) extend to the court appearance date the time during which an OHV can be impounded; b) increase the range of offences where sanctions can include seizure and public auction sale of an OHV, to include particularly: failure to stop for enforcement officials, operating an unregistered vehicle, operating under the influence of alcohol/drugs, using an OHV to assist in committing a criminal offence, damaging or removing signage, operating in a park or other protected area; c) allow the application of driver's licence demerit points for serious OHV offences; and d) allow the application of demerit points on a registered owner's driver's licence in situations involving a child/youth in violation of OHV laws and regulations.

47. Amend legislation to significantly increase the amount of fines currently in place and to provide for a further increase for a second offence, with automatic vehicle seizure and public auction disposal for third offences.

Recommendations Interim Report

48. Institute a special program to support self-policing in all regions of the province under the leadership of the Integrated Enforcement Task Force and the Nova Scotia Trails Federation, with project funding being provided by the OHV Infrastructure Trust Fund; special projects to include and not be limited to expanding Trail Warden Programs, the Citizens On Patrol Off Road Program, and to the training of a cadre of trail wardens from within the OHV community to special constable status.

Recommendations from Interim Report

Appendix 4
Community Meetings

Place	Attendance	Speakers
Annapolis Royal	75	20
Antigonish	27	12
Baddeck	23	10
Bridgewater	80	13
Cheticamp	23	9
Chezzetcook	160	24
Eskasoni	6	3
Guysborough	52	8
Halifax	75	20
Inverness	19	7
Kentville	110	16
Liverpool	40	6
Louisdale	48	10
New Glasgow	120	19
Oxford	80	13
Saulnierville	30	9
Sheet Harbour	50	17
Shelburne	18	9
Sydney	42	14
Tantallon	160	28
Tatamagouche	55	11
Truro	85	21
Windsor	38	14
Yarmouth	40	14
Total	**1,456**	**327**

Appendix 5
Stakeholder Presentations

Oct. 15–16, Nov. 20, Dec. 4, 2003, and March 11, March 23, April 27, 2004

All Terrain Vehicle Association of Nova Scotia (ATVANS)

Atlantic Motocross Racing Community of Nova Scotia

Bowater Mersey

Canadian All-Terrain Vehicle Distributors Council (CATV)

Canadian Parks and Wilderness Society (CPAWS), Nova Scotia Chapter

Cape Breton Highland National Park

Child Safety Link

Citizens on Patrol Off Road

Dr. Judith Guernsey

Ecology Action Centre

Emergency Health Services (EHS), Nova Scotia Trauma Program

Federation of Nova Scotia Naturalists

Insurance Bureau of Canada

Maritime Northeast Pipeline

Martin Willison

Nova Scotia Bird Society

Nova Scotia Coastal Guardian Program

Nova Scotia Department of Environment Labour

Nova Scotia Department of Natural Resources, Land Services

Nova Scotia Department of Natural Resources, Parks and Recreation Division

Nova Scotia Department of Natural Resources, Wildlife Division

Nova Scotia Equestrian Federation

Nova Scotia Federation of Agriculture

Nova Scotia Federation of Anglers & Hunters

Nova Scotia Nature Trust

Nova Scotia Safety Council

Nova Scotia Sport and Recreation Commission

Nova Scotia Trails Federation

Nova Scotia Youth Advisory Council

Snowmobilers Association of Nova Scotia (SANS)

Tourism Industry Association of Nova Scotia (TIANS)

Windsor & Hantsport Railway

Wordsworth Advertising

Appendix 6
Other Events Attended by the Off-highway Vehicle Task Force

Rev-Up Support for Responsible OHVing in Nova Scotia!
Sponsored by All Terrain Vehicle Association of Nova Scotia (ATVANS) and the South Colchester ATV Club
Sunday, June 13, 2004
Don Henderson Memorial Sportsplex, Brookfield, Nova Scotia

The Association of Municipal Administrators Conference
Thursday, June 17, 2004
Pearson Peacekeeping Centre Cornwallis Park, Clementsport, Nova Scotia

Citizens for Responsible All-Terrain Vehicles Use
Wednesday, July 14, 2004
Old Orchard Inn, Wolfville, Nova Scotia

Appendix 7
Enforcement Focus Session – December 4, 2003

Nova Scotia Department of Natural Resources, Regional Services Enforcement
Derrick Stoddard, Conservation Officer

Nova Scotia Department of Natural Resources, Regional Services Enforcement
John Mombourquette, Director, Enforcement Division

Nova Scotia Department of Environment and Labour, Environmental and Natural Areas Management
Peter Labor, Protected Areas Planner

Nova Scotia Department of Environment and Labour, Environmental Monitoring and Compliance
Glen Warner, Acting Compliance and Inspection Coordinator

Truro Police Service
Glenn Rodgers, Deputy Chief

Department of Justice, Policing and Victims Services
Robert Eyre, Policing Consultant

Department of Justice, Legal Services
Jonathan Davies, Director of Solicitor Services

RCMP, Lower Sackville Detachment
Staff Sgt. Keith MacGuire
Traffic Commander, Halifax Metro Traffic Services

RCMP, Lunenburg County Detachment
Cst. Greg Smith

RCMP, Cole Harbour Detachment
Cst. Brian Veniot

Nova Scotia Trails Federation
Jim Vance, Executive Director

Service Nova Scotia and Municipal Relations, Program Management and Corporate Services
Paul Arsenault, Director of Motor Vehicle Administration

Appendix 8
OHV Interdepartmental Resource Team

Representing provincial departments and agencies with OHVs as an area of responsibility.

George C. Smith
Director, Quality Evaluation Services
Agriculture and Fisheries

Roy Kennedy
Policing and Public Safety Consultant
Justice

Peter Labor
Protected Areas Planner
Environment and Labour

John Mombourquette
Director of Enforcement
Natural Resources

Randy Milton
Manager, Wildlife Resources
Natural Resources

Lang Jongmans
Senior Policy Advisor
Tourism, Culture and Heritage

Bernie Clancey
Engineer
Transportation and Public Works

Paul Arsenault
Director of Motor Vehicle Administration
Service Nova Scotia and Municipal Relations

Ted Scrutton
Coordinator of Outdoor Recreation
Office of Health Promotion, Sport and Recreation Division

Patricia MacNeil
Senior Policy Advisor
Treasury and Policy Board

Wyatt White
Policy Analyst
Aboriginal Affairs

Appendix 9
Member Biographies

Robert Bailey
Mr. Bailey's professional career was dedicated to policy development by the governments of Canada and Nova Scotia concerning the public administration of Natural Resources. He has particular expertise in forestry, water resources planning and environmental management. He holds a PhD in Natural Resources Management from Cornell University, a master's degree in Regional and Resources Planning from the University of Waterloo, and a BSc in Forestry from the University of New Brunswick. Mr. Bailey resides in Black River, Pictou County.

David Barrett
Mr. Barrett is Secretary and Woodlands Manager of Barrett Lumber Company Limited, a family owned lumber operation in Lower Sackville. His experience includes more than 30 years on the Board of Directors of the Forest Products Association of Nova Scotia and service as a member of Voluntary Planning's Forestry Sector. Mr. Barrett is Past President of the Wood Product Manufacturing Association. His company created the Family Forestry Stewardship agreement.

Sheila Campbell
Ms. Campbell is a Registered Medical Laboratory Technologist with the Colchester Regional Hospital in Truro. She is also the owner of a small business, "Mrs. C's ATV Rider Safety Training" in Noel, Hants County. She is a frequent speaker and presenter on ATV safety and etiquette. Sheila holds the title of being the first female in Canada and in the history of the Canada Safety Council to be certified as an ATV Chief Safety Instructor. She is also Safety Officer for the All Terrain Vehicle Association of Nova Scotia.

Laurie Cranton
Mr. Cranton attended Maritime Forest Ranger School in New Brunswick in 1980 and suffered a spinal cord injury a year later in a forestry accident. Since his accident, Mr. Cranton has counseled others with disabilities, served on various volunteer boards. He is an active snowmobiler and is involved in organizations related to tourism, snowmobiling, and trail development. He is past president of the Snow Mobile Association of Nova Scotia. Mr. Cranton manages a family farm and wood lot, is president of a company offering wilderness horseback riding, and is involved in a family business in the Margaree Centre area.

Devin W. Maxwell
Mr. Maxwell graduated from Dalhousie Law School in 2001 after receiving a BA in Political Science and History in 1998. He is a member of the Nova Scotia Barristers' Society and the Canadian Bar Association and is an associate with Burchell Hayman Parish in Halifax. He is a member and former Chair of the Race Relations Committee for the Nova Scotia Barristers' Society and resides in the City of Halifax.

James W. Moir, Jr.
Mr. Moir is a retired business executive who has extensive experience in corporate, volunteer and community leadership. Having held a variety of senior positions in the financial services industry, he retired in 1998 as President and Chief Executive Officer of Maritime Medical Care, Inc. Mr. Moir has served as a director or officer of many academic, business and community organizations. He is past-Chair of Voluntary Planning's Task Force on Non-Resident Landownership. Mr. Moir lives in Lunenburg County.

Jim Todd
Mr. Todd is a resident of Perotte, Annapolis County where he is self-employed as a graphic designer, illustrator and cartoonist. He is an avid hunter, fisherman and canoeist. He is a licensed Nova Scotia guide and all-terrain vehicle owner. Mr. Todd is Vice-President of the Tobeatic Wilderness Committee and represents that committee on the Tobeatic Advisory Group, which provides advice to the Nova Scotia Department of Environment and Labour. Jim has a background in cartography, survey principles and property law.

Louis Tousignant (Chair)
Mr. Tousignant is retired from a career in the federal civil service where he held a variety of senior management positions, finishing his career as Senior Assistant Deputy Minister in the Department of Fisheries and Oceans. He became the Chair in the spring 2004, after the interim report was released, and has guided the Task Force through to the completion of the final report. He has a proven track record in the management of complex public policy issues at all levels of government. He continues to contribute to policy development through his participation on Voluntary Planning's Natural Resources Sector. Mr. Tousignant currently resides in East Berlin, Queens County.

Jim Wolford
A resident of Wolfville, Mr. Wolford has retired from a career as a biology instructor with Acadia University but remains active with the university as a volunteer. A well-known naturalist, educator, and conservationist with very broad interests, he has experience with Voluntary Planning's Land Resources Coordinating Council. He served on the Board of Directors of the Canadian Nature Federation for six years and maintains many other affiliations with environmental organizations.

Natalie Yanchar
Dr. Yanchar is Medical Director, Trauma Care at the IWK Health Centre in Halifax. She is a Pediatric General Surgeon and an Assistant Professor in Surgery with Dalhousie University. Dr. Yanchar maintains memberships in several medical societies and is a Fellow of The Royal College of Physicians and Surgeons of Canada. She sits on the Nova Scotia Trauma Advisory Council and is Chair of the Pediatric Trauma Committee within the Trauma Association of Canada. Her research specialty is prevention of injury to children. Dr. Yanchar is a frequent guest speaker on the subject of trauma in children and some of her work has focused on All Terrain Vehicle-related injuries in children and youth.

Appendix 10
About Voluntary Planning

How do busy citizens make informed opinions about current issues? And how do they make their voices heard?

When all around there is evidence that Western democracies are becoming less effective at reaching their citizens, we have an excellent example, here in Nova Scotia, of how citizens can be heard - Voluntary Planning.

Voluntary Planning has been around for 40 years. It started as solely an economic planning agency, but has evolved as a forum to give citizens a say in policy making on important societal issues. We are volunteers (supported by four permanent staff) who share our time and expertise to help government explore the complexity of public reaction to current issues. We recently organized into six broadly defined societal sectors: economic growth and competitiveness, education and lifelong learning, environmental quality and stewardship, fiscal management policy, health and social well-being, and natural resources. We work at arm's length from government, but with primary contact to Cabinet through the Minister responsible for Treasury and Policy Board. This relationship recognizes both the quality of our work and the value placed on the citizen's perspective.

When Voluntary Planning communicates with government, government knows that it will hear a moderate, well-researched, well-considered position. Voluntary Planning is objective and non-partisan. We consult with experts, with special interest groups, and with ordinary citizens from all around our province so that we have a comprehensive understanding of the issues. We make our recommendations based on what is best for Nova Scotia in the long run. We have no agenda beyond that.

When we study a major policy issue we start by recruiting a group of knowledgeable volunteers who are representative of our province. We employ worldwide research and the testimony of experts in our deliberations, so that our members understand the complexity of the topic and the host of possible solutions. We hold public meetings around the province to canvass the opinions of citizens and invite comment from everyone interested in the subject. We consider our findings as a group and release an interim report. Then – and this has been a very effective next step – we listen to people again. We invite public comment on our interim report and consider all submissions before completing and releasing our final report. We have found that this process produces excellent results, including raising the awareness of our fellow citizens. We collect and share information, consult with Nova Scotians, and listen – a recipe for a true learning society and an enhanced democracy.

For more information, visit our website at <www.gov.ns.ca/vp> or contact us at
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